

Ordinary Meeting

Meeting Date: Monday, 06 June, 2022
Location: Council Chambers, City Administrative Building, Bridge Road, Nowra
Time: 5.30pm

Membership (Quorum - 7)
All Councillors

Please note: The proceedings of this meeting (including presentations, deputations and debate) will be webcast and may be recorded and broadcast under the provisions of the Code of Meeting Practice. Your attendance at this meeting is taken as consent to the possibility that your image and/or voice may be recorded and broadcast to the public.

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Shoalhaven City and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act or any other Act, to the best of their skill and judgement.

The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

Agenda

1. **Acknowledgement of Country**
2. **Moment of Silence and Reflection**
3. **Australian National Anthem**
4. **Apologies / Leave of Absence**
5. **Confirmation of Minutes**
 - Ordinary Meeting - 23 May 2022
 - Extra Ordinary Meeting - 26 May 2022
 - Extra Ordinary Meeting - 31 May 2022
6. **Declarations of Interest**
7. **Presentation of Petitions**
8. **Mayoral Minute**
9. **Deputations and Presentations**

10. Call Over of the Business Paper

11. A Committee of the Whole (if necessary)

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15. Confidential ReportsReports

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There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.

CCL22.18	Tenders - Rehabilitation of Worrigee Road (CH 860 – CH1620), Worrigee <i>Local Government Act - Section 10A(2)(d)(i) - Commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.</i>
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There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.

CCL22.19	Land Acquisition Matters - Cambewarra Locality <i>Local Government Act - Section 10A(2)(c) - Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</i>
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There is a public interest consideration against disclosure of information as disclosure of the information could reasonably be expected to reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests.

CL22.240 Report of the Youth Advisory Committee - 18 May 2022

HPERM Ref: D22/223902

YA22.13 Additional Item - Community Membership Nomination Nathaniel Woodcock

RECOMMENDATION

That Council appoint Mr Nathaniel Woodcock as a Community Member on the Youth Advisory Committee.

CL22.240

CL22.241 Report of the Shoalhaven Arts Board - 18 May 2022

HPERM Ref: D22/212724

Attachments:

1. Shoalhaven Libraries - Operations Policy - Draft Changes [↓](#)
2. Shoalhaven Libraries - Children's Policy - Draft Changes [↓](#)
3. Shoalhaven Libraries - Internet Usage Policy - Draft Changes [↓](#)

AB22.20 Council Policy Revisions - Shoalhaven Libraries - Operations Policy

HPERM Ref:
D22/180270

RECOMMENDATION

That Council adopt the revisions of the Shoalhaven Libraries Operations Policy.

AB22.21 Council Policy Revisions - Shoalhaven Libraries - Children's Policy

HPERM Ref:
D22/180349

RECOMMENDATION

That Council adopt the revisions of the Shoalhaven Libraries Children's Policy.

AB22.22 Council Policy Revisions - Internet Usage Policy

HPERM Ref:
D22/195566

RECOMMENDATION

That Council adopt the revisions of the Shoalhaven Libraries Internet Usage Policy.

AB22.24 Shoalhaven Arts Board - Expression of Interest - Appointment of Community Members

HPERM Ref:
D22/183472

RECOMMENDATION

That Council, as recommended by the Shoalhaven Arts Board, endorse the appointment of the following community members to a two (2) year term:

1. Kate Dezarnaulds – Community Member
2. Bonnie Porter Greene – Community Member
3. Drew Longbottom – Aboriginal Community Member

AB22.29 Cultural and Creative Industries Strategy & Planning

HPERM Ref:
D22/163142

RECOMMENDATION

That the Shoalhaven Arts Board undertake a review of the existing Strategic Plan and present a Revised Strategic Plan to Council for consideration and adoption following the public exhibition process.

CL22.241

AB22.31 Additional Item - Cultural Development

- Discussion took place following the suggestion from Cllr Gray for Council to create a new staff position - Cultural Development Officer, whose role would be to work closely with local schools and educators, small arts organisations and across all departments of Council.

RECOMMENDATION

That Council:

1. Review existing staffing models and undertake benchmarking for Cultural Development Officers working in Local Government.
2. Report its findings and potential ways forward at the next Shoalhaven Arts Board meeting to be held on 18 August 2022.

Note by the CEO:

The Terms of Reference of the Shoalhaven Arts Board (POL19/45) specifically limits the delegations of the Board to Act within adopted budgets aligning with Council's strategic plans and document and make recommendations on the arts to Council. It is outside the delegation of this Board to make recommendations to explore additional operational staff positions.

Should the elected Council wish to create additional services or functions in the area of Arts this should be clearly outlined in Strategic Planning documents. Once established as a strategic direction endorsed by the Council, then appropriate resourcing could be considered.

Wording of an appropriate recommendation for this item is provided below:

PROPOSED REPLACEMENT RECOMMENDATION

"That:

1. *The Shoalhaven Arts Board in their upcoming review of the Arts Board Strategic Plan, give consideration to a function providing support in the Arts to schools and educators, small arts organisations and to the Council.*
2. *Once adopted by the Council, the Arts Board Strategic Plan initiatives be incorporated for consideration and resourcing in the Council's future Delivery Programs and Budget."*

CL22.241

Shoalhaven Libraries - Operations

Adoption Date:	23/07/2002
Reaffirmed:	22/02/2005
Amendment Date:	28/04/2009, 21/05/2013, 27/06/2017, 15/12/2020
Minute Number:	MIN02.891, MIN05.135, MIN09.489, MIN13.490, MIN17.566, MIN20.933
Review Date:	01/12/2021
Directorate:	City Lifestyles
Record Number:	POL22/61

Shoalhaven Libraries - Operations

1. Purpose

The purposes of this Policy is:

- to inform library staff and the public of the operations policy of Shoalhaven Libraries;
- to detail library membership and lending conditions that apply to the library and its collections;
- to outline the service delivery standards and requirements of the library.

2. Statement

The policy is to be read in conjunction with Council's Code of Conduct ([POL20/75](#)), Shoalhaven Libraries Internet Usage Policy ([POL22/60](#)) and Shoalhaven Libraries Children's Policy ([POL22/59](#)) and amendments made therein. It was adopted by Minute 02.891 on 23rd July 2002 and renamed and reaffirmed in its revised format by Minute 05.135 on 22nd February 2005 and Minute 09.489 on 28 April 2009.

3. Provisions

3.1. Mission Statement

Shoalhaven Libraries aims to educate, enrich, entertain, inform, involve and empower the people of the Shoalhaven.

Shoalhaven Libraries is also committed to serving the information and recreation needs of children and young people. The Library aims to provide a welcoming environment, with resources and programs to meet the needs of all Library patrons including targeted groups.

3.2. Professional Values

Shoalhaven Library services are underpinned by the following professional values:

The **ALIA Statement on Free Access to Information (2018)** states "that freedom can be protected in a democratic society only if its citizens have unrestricted access to information and ideas."

The Australian Library and Information Association (ALIA) 'believes that library and information services have particular responsibilities in supporting and sustaining the free flow of information and ideas.'

Collection material should not be rejected on the grounds that its content is controversial or likely to offend some sections of the library's community.

A publication that has not been subjected to legal restriction or prohibition will not be excluded from the collection on moral, political, racist or religious grounds alone whatever the pressure that may be brought to bear by individuals or groups.

The **ALIA Professional Conduct Policy Statement (2018)** states that 'People engaged in library and information services are members of a profession committed to act with integrity, ethics, trust, expertise and the promotion of public good.'

Shoalhaven Libraries - Operations

The Library Council of NSW guideline **Access to Information in New South Wales Public Libraries (201908)** states that public libraries have 'a role as an unbiased source of information and ideas, including online content. It must accept responsibility for providing free access to materials and information presenting, as far as possible, all points of view on current and historical issues, including controversial issues.'

Public Libraries acknowledge the democratic rights of individuals to freely pursue their own information interests. This view is articulated in the **UNESCO Public Library Manifesto (1994)** which states that 'constructive participation and the development of democracy depend on satisfactory education as well as on free and unlimited access to knowledge, thought, culture and information.'

The ~~patron's~~ customer's user's right to privacy with respect of the use of the library or its materials is fully recognised and guarded within the provisions of the **Library Act of New South Wales 1939** and **amendments**.

4. Library Service Charter

Library ~~patrons~~ customers can expect:

- Prompt, courteous, and efficient service by approachable and non-judgemental staff.
- A welcoming and safe environment.
- Free and equal access to resources and services to all individuals and groups within the community, in accordance with the NSW Library Act 1939.
- A range of library resources and services at each library tailored to the needs of each community.
- Library information resources which are relevant and up-to-date.
- Access to a range of information technologies, including public computers, internet access, Wi-Fi and electronic resources.
- Access to staff with professional expertise and knowledge.
- Provision of assistance to people who need adaptive technology and different media to enable them to use the full range of library services and facilities.
- Confidentiality in accordance with the NSW privacy legislation.
- To have suggestions and comments about the library service welcomed.

5. ~~Library Patrons~~ Shoalhaven Libraries' Customer- Code of Conduct

5.1. All ~~patrons~~ customers of Shoalhaven Libraries branches are required to observe the following facility rules:

5.1.1. Agree to abide by all rules of the facility applicable to the general public.

5.1.2. Agree not to harass, threaten, or intimidate facility staff ~~in the carrying out of their duties or Library customers.~~

~~5.1.3. Agree not to harass, threaten or intimidate other Library patrons.~~

~~5.1.4.5.1.3.~~ Agree not to behave in a manner that would be regarded by a reasonable person as being offensive.

~~5.1.5.5.1.4.~~ Observe all lawful directions from staff in relation to conduct whilst in Council facilities.

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- ~~5.1.6.5.1.5.~~ Bags and personal belongings are your responsibility and should be kept with you at all times. Library customers that leave items in the Library do so at their own risk.
- ~~5.1.7.~~ Library patrons that leave items in the Library do so at their own risk
- ~~5.1.8.5.1.6.~~ Photography in the Library is not permitted without prior permission.
- ~~5.1.9.5.1.7.~~ Adults must accompany and supervise children at all times.
- ~~5.1.10.5.1.8.~~ Refrain from using mobile phones while visiting the Library Discussion and the use of mobile phones in the library should not disturb other Library Customers.
- ~~5.1.11.5.1.9.~~ Respect the rights of other Library patrons customers.
- ~~5.1.12.5.1.10.~~ Push bikes and skateboards are not permitted in the Library and are left at the Library patrons customer's own risk
- ~~5.1.13.5.1.11.~~ Evacuate the Library quickly and safely when requested by staff
- ~~5.1.14.5.1.12.~~ *"Safety is Everyone's Responsibility"*: Report any problems, or potential risks, to the Library staff immediately
- ~~5.1.15.~~ Library patrons who do not comply with the Visitors and Library patrons Code of Conduct may be asked to leave the library or may be refused access to the library buildings by any library staff member.
- ~~5.1.16.5.1.13.~~ The health and safety of our patrons customers is is important to us.
- You ARE NOT PERMITTED TO ENTER these premises if you are experiencing or exhibiting symptoms of cold, flu, COVID-19, respiratory illness or other infectious illness or disease.
- Such symptoms may include:
- Fever
 - Chills or sweats
 - Cough
 - Sore throat
 - Shortness of breath
 - Runny nose
 - Loss of sense of smell
 - Skin rash, lesions, or sores.
- If you are experiencing or exhibit any of these symptoms whilst on these premises, you may be asked to leave.
- ~~Library customers who do not comply with the Shoalhaven Libraries' Customer Code of Conduct may be asked to leave the library or may be refused access to the library buildings by any library staff member.~~
- ~~5.1.14.~~ By entering these Council facilities, you have accepted the above terms and conditions.

6. Shoalhaven Libraries Objectives

- To provide the Community with a library service that is free, equitable, accessible, safe, cost effective and efficient.;
- To provide access to a current and relevant collection which meets community needs.;

Shoalhaven Libraries - Operations

- To provide physical facilities that are attractive, designed for efficiency, [accessibility](#), and sustainability, flexible and functional, and which will serve the identified needs of the community.
- To provide a specially designed and equipped mobile library service to those people who cannot reach a static branch or central library.
- To provide the community with a range of programs and activities to enhance community engagement.
- To strive for excellence in customer service and to ascertain library customer satisfaction or dissatisfaction with library services.

7. Shoalhaven Libraries – Responsibility Statement

7.1 Collection Development

The criterion for the selection of library materials follows professional standards as defined by the Australian Library & Information Association (ALIA) and is outlined in the Collection Development Policy of the South Coast Cooperative Library Service ([POL20/73](#)).

7.2 Access to Resources

The role of Shoalhaven Libraries staff is to guide and assist customers in finding and accessing resources appropriate to particular interests and needs.

The catalogue of the South Coast Cooperative Library Service is available online allowing [patrons-customers](#) to access the collections of the libraries that make up the South Coast Cooperative Library Service. Member services are also available through the library catalogue at www.shoalhavenlibraries.com.au

Shoalhaven Libraries general collection may contain publications ~~that have been~~ [that are](#) classified 'Unrestricted' and films classified 'G' (General), 'PG' (Parental Guidance), 'M' 'MA' (Mature) or 'R' (Restricted) in accordance with the Classification (Publications, Films and Computer Games) Act 1995 ~~(eth)~~. [Members under the age of 18 are not permitted to access films with an 'R' rating, and members under the age of 15 should only access films rated 'MA' with the consent of their parent or guardian. DVDs classified MA and R cannot be borrowed by junior library members.](#) All other resources are available to all persons without restriction. It is the responsibility of parents or guardians, not library staff, to make a final decision as to what is suitable for their child.

The Library promotes and supports Library ~~patrons'~~ [customers'](#) access to information, including electronic information through its internet facilities. Accessing illegal or offensive sites is prohibited.

7.3 Shoalhaven Libraries Services Statement

7.3.1 Information & Readers Advisory Services – to offer reference and readers' advisory services to Library [patronscustomers](#). This includes:

- access to ~~up-to-date~~ [up-to-date](#) reference materials and online databases.

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- education programs to support information and digital literacy, and effective use of library resources and facilities;
- Reader's Advisory tools such as 'What to Read Next' advice, booklists, bookmarks, and online databases.

7.3.2 Reservations – to provide an access and delivery service to branches for items on loan or held at Cooperative branches. A cost recovery fee applies may apply.

7.3.3 Interlibrary Loans and Document Delivery – to facilitate access to resources held in other Australian library and information services collections. This includes public, special, educational, State and National Libraries. Fees apply.

7.3.4 Local Heritage Collection – to preserve, maintain and provide access to a collection of local heritage information, that covers the social, economic, and historical development of the Shoalhaven.

7.3.5 Cataloguing

- To provide a framework for bibliographic control of library materials and the exchange of bibliographic data.
- To maintain rigorous control to ensure consistency and uniformity to facilitate use by those unfamiliar with library protocols.

7.3.6 Community Noticeboards ~~and Display Cabinet~~

- ~~A glass display case at Nowra Library can be booked and is available for use by community groups~~
- All material for display should be approved, signed, and dated by the Customer & Community Resources Manager or other senior staff.
- Priority will be given to the display of material for sporting, recreational, arts, health, educational and cultural activities held within the Shoalhaven Local Government Area. Notices of such activities not pertaining to the local area will be displayed only when space permits.
- Government publications and notices will be displayed, space permitting.
- The Community Noticeboards are not to be used for advertising for private business, personal 'For Sale' notices and /or commercial endeavours.

7.3.7 Services to Targeted Customer Groups

- To provide services and materials which meet the needs of particular targeted customer groups;
- To provide the community with a range of activities/programs and events related to library services and collections that enrich the lives of the community.

The major library customer groups represented in the Shoalhaven are:

7.3.8 Children & Youth Services

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(See Shoalhaven Libraries – Children’s Policy [\(POL22/59\)](#))

7.3.9 Other Targeted Customer Groups

- **Literacy** – to actively promote and support programs for members of the community with identified literacy and digital literacy needs
- **CALD** – to meet the library needs of culturally and linguistically diverse communities
- **Aboriginal & Torres Strait Islanders** – to actively consult and negotiate with Indigenous Australians to promote library and information literacy
- **People with a disability** – to provide barrier-free access to library services and resources for people with a disability.
- **Aged** – to ensure that older members of the community can access and use library collections, services, and programs. The Home Library Service provides access to library information and resources for those community members who are unable to physically access their local library due to disability or age. A doctor’s certificate is required as proof of eligibility to register.
- **Mobile Libraries** – to provide access to library resources to customers in remote areas.
- **Digital** – Digital membership that provides 24-hour access to resources and information.

7.4 Library Membership

Membership to the library is free, in accordance with the requirements of the Library Act 1939.

The Act sets out the core library services that must be offered free of charge; determines the regulations governing the use of the Library; defines the relationship between Local Government and the State Government with regard to public library services, and articulates the State Government funding process.

7.4.1. Membership Categories

- **Digital** – any resident of Shoalhaven Local Government Area can join free of charge and access all digital resources
- **Adults** – permanent residents, ratepayers and those working in the Shoalhaven Local Government Area can join free of charge
- **Juniors** – persons under sixteen (16) years of age must have permission of a parent or legal guardian. The parent or guardian should accompany the child or young adult to the library and produce current identification ~~in order~~ to join.
- **Non-residents** – Visitors to the Shoalhaven Local Government Area may join as non-residents. This type of membership is free and provides restricted lending conditions of five (5) items and one renewal, no interlibrary loans and no borrowing of Kiama or Gerringong collection items.
- ~~**Reciprocal Borrowers** – Visitors and non-residents who are current members of their local public library (in Australia) may join as a reciprocal borrower. This type of membership is free, however a current membership card from their home library is required to be held by Shoalhaven Libraries, and staff will verify the status of their public library membership. Reciprocal borrowers must return the Shoalhaven Libraries card and all items on loan to them before their home library membership card is returned to them.~~

Shoalhaven Libraries - Operations

- ~~Temporary Members~~ – ~~Visitors and non residents may join the library by paying a refundable deposit. Temporary members must return the Shoalhaven Libraries card, all items on loan and the original receipt before the refund is processed.~~
- **Organisations** – Local organisations (e.g.e.g., Nursing homes, pre-schools) can join the library, however written approval from the organisation's executive on letterhead is required.
- **Unconfirmed Address** – any resident of the Shoalhaven who currently has no fixed address can join free of charge. This type of membership provides restricted lending conditions of five (5) items and one renewal, no interlibrary loans and no borrowing of Kiama or Gerringong collection items. Acceptable forms of identification are Medicare, Centrelink, or concession cards for name confirmation purposes only.

Current identification showing a current address must be shown (except in the case of Unconfirmed Address). Accepted forms of identification are:

- A current NSW Driver's Licence or NSW Photo Card
- A current Health Care Card (Centrelink)
- Shoalhaven Council Rates Notice
- Student Card
- Defence Card
- Lease Agreement/Rent Receipt

Only one library membership per person is allowed.

8. Lending Conditions

8.1 Loan Period

- The standard loan period is four (4) weeks.
- Two (2) loan extension (renewal) is allowed, except if an item is reserved or overdue by more than two (2) weeks.
- Heavily reserved items will have a reduced loan period of two (2) weeks.
- Requests for loan extensions can be made by phone, email or in person at any branch library. Members can also renew their loans online via the online catalogue or the Shoalhaven Libraries App.
- ~~Some library~~ Library collections ~~are~~ not for loan ~~include, such as~~ Reference, Local Heritage, and newspapers. The materials in these collections are for use within the library only.
- Extended loan periods greater than four (4) weeks can be requested and is allowed at the discretion of each branch manager.
- The loan period for special collections or materials may vary from the standard period as determined by the Library Manager.

8.2 Loan Limit

- Overall borrowing is limited to ~~twenty-three~~ (320) items per borrower.
- Non-fiction collection - maximum of three (3) items per topic (per household).
- Fiction collection – a limit of three (3) books by the same author applies
-
- Games and Puzzles – a limit of three (3) per membership
- The loan limit for special collections or materials may vary from the standard policy as determined by the Library Manager and Branch Managers.

Shoalhaven Libraries - Operations

8.3 Reservations

- Library members may reserve lending material at any branch library and can choose to collect the reserved item at any branch library. A fee [may be](#) applicable.
- Members are advised when a reserved item is ready for collection.
- Uncollected reservations are returned to the collection for others to borrow when the ten (10) day hold period expires.
- Items reserved by other members cannot be renewed.

8.4 Library Cards

- [Library members must show their library card or know their member number to](#) borrow material and use public access computers, [library members may show their library card, a valid form of ID or provide their member number.](#)
- Library members can use either their physical library card or access a digital copy through the library app
- The person using a computer booking must be the same library card holder booked in for the session and the member is responsible for having their card or knowing its number.
- The member named on the membership card, or their guarantor, is responsible for losses and/or damage to library material borrowed on that card.
- Lost membership cards should be reported immediately.
- A fee is charged for the replacement of any membership card which has been lost or damaged.

8.5 Overdue and Lost / Damaged Items

- All borrowing privileges will be suspended if any items are overdue for longer than 30 days. Once the items are returned undamaged borrowing privileges will be reinstated.
- Library notices will be sent to remind members of overdue loans and request their return. Final Demand notices are also sent for non-returned and lost material stating the replacement cost if the items are not returned after 90 days. [If the items are not returned or replacement fees paid within 30 days of the Final Demand notice being sent borrowers will be banned from using library services.](#)
- Charges also apply for the replacement of items lost or damaged by a [borrower/member](#). [The replacement charge consists of the original purchase price or value and an item processing fee.](#) Once paid this is non-refundable.
- Borrowing privileges are withdrawn if accounts for fines or lost or damaged items remain unpaid.

8.6 Fees, Charges and Fines

- Core library services (as detailed in the Library Act 1939 and amendments) are free to members. [Charges](#) are assigned for services defined as value-added.
- The Local Government Act provides for Council to apply fees and charges as resolved by Council annually. All fees and charges are set by resolution of Shoalhaven City Council and are included in Council's Annual Management Plan.
- Borrowers must pay for items which are non-returned, lost, or damaged.
- The library does not charge overdue fines. For a list of current fees & charges charged by Shoalhaven Libraries please visit www.shoalhavenlibraries.com.au

8.7 Responsibility for Minors

Shoalhaven Libraries - Operations

- Responsibility for losses or damage incurred by members under sixteen years of age is assumed by the parent or guardian. This acceptance of responsibility is indicated by the parents or guardians signed declaration on the membership application form or by clicking Submit when registering online.
- Parents or guardians are responsible for the supervision of their children's reading matter, Internet access and behaviour in the Library.

9. Food and Drink

9.1 Drinks

- Non- alcoholic beverages in spill-proof or covered containers are permitted (such as covered coffee cups, soft drink cans and water bottles).

9.2 Food

- Snacks are permitted (such as commercially wrapped bars and biscuits)

9.3 Prohibited Area – Local Heritage and Technology Area

- No food or drink is allowed in the Local Heritage Area or Technology Area. -No food or drink is to be consumed near Local Heritage material.

9.4 General Conditions

- We ask you to act responsibly when consuming food and drink in the library and to be considerate of other library [patrons](#) customers.
- Please dispose of your rubbish in the bins provided and report any spills to library staff.
- Library staff will use their discretion in determining whether food and drink are suitable to be consumed in the library. You will be asked to remove food or drink if it is considered to be unsuitable.

9.5 Children

- Parents and Guardians are responsible for monitoring the consumption of food and drink by children under their supervision.

9.6 Library Activities and Functions

- Alcohol will only be served at an activity or function with the prior approval of library management. The library practises responsible service of alcohol.
- Drink containers and foods not prescribed above may be used at library activities or functions with staff supervision.
- Parents, teachers, and supervisors of young children shall be alerted when food or drink is served at children's activities.

10. Implementation

The City Lifestyles Directorate will administer this policy.

11. Review

To be reviewed within one year of the election of a new Council.

Shoalhaven Libraries – Children’s Policy

Adoption Date:	25/05/2004
Reaffirmed:	22/02/2005
Amendment Date:	28/04/2009, 3/09/2013, 27/06/2017, 15/12/2020
Minute Number:	MIN04.663, MIN05.135
Review Date:	01/12/2020
Directorate:	City Lifestyles
Record Number:	POL22/59

~~Shoalhaven Libraries - Children's Policy~~
~~Shoalhaven Libraries - Children's Policy~~
~~Shoalhaven Libraries - Children's Policy~~

1. Purpose

The Policy provides children, young ~~people~~people, and their parents / guardians / carers with a clear understanding of the role of the Library and the scope of its services as they apply to children and young people.

2. Statement

This Policy is to be read in conjunction with Council's Code of Conduct (POL20/~~7535~~), Shoalhaven Libraries Operations Policy (POL~~46/20922/61~~), Shoalhaven Libraries Internet Usage Policy (~~46/249~~POL22/60), and amendments made therein.

3. Provisions

Shoalhaven Libraries is committed to serving the information and recreational needs of children and young people. The Library aims to provide a welcoming environment, and targeted resources and programs to meet the needs of children and young people.

1.1. Professional Values

Public Library services to children and young people are underpinned by the following professional values:

- 1.1.1. The Australian Library & Information Association (ALIA) Statement on Free Access to Information ([2018](#)) states that *"freedom can be protected in a democratic society only if its citizens have access to information and ideas"*.
This statement also addresses censorship. Libraries should resist *"attempts by individuals or groups within their communities to restrict access to information and ideas"*. Collection material should not be rejected on the grounds that its content is controversial or likely to offend some sections of the Library's community.
- 1.1.2. A publication that has not been subjected to legal restriction or prohibition will not be excluded from the collection on moral, political, ~~racist~~racist, or religious grounds alone whatever the pressure that may be brought to bear by individuals or groups.
- 1.1.3. The ALIA ~~Statement on Professional Conduct~~Professional Conduct Policy Statement ([2018](#)) states that people engaged in library and information services are members of a profession committed to act with integrity, ethics, trust, ~~expertise~~expertise, and the promotion of public good.
- 1.1.4. The Library Council of NSW Guideline ([2019](#)) 'Access to Information in New South Wales Public Libraries', states that public libraries have *"a role as an unbiased source of information and ideas, including online content. It must accept responsibility for providing free access to materials and information presenting, as far as possible, all points of view on current and historical issues, including controversial issues"*.
- 1.1.5. The Library Council of NSW 'Children's Policy Guidelines for NSW Public Libraries' (~~revised July 2008~~2020) states that public libraries *"support young people through the provision of collections and programs that foster an appreciation of literature and promote the development of information literacy skills"*.
- 1.1.6. Public Libraries acknowledge the democratic rights of individuals to freely pursue their own information interests. This view is articulated in the United Nations Educational, Scientific & Cultural Organisation (UNESCO) Public Library Manifesto ([1994](#)) which states that *"constructive participation and the development of democracy depend on*

Shoalhaven Libraries - Children's Policy

satisfactory education as well as on free and unlimited access to knowledge, thought, culture and information”.

1.1.7. The NSW Office of Children and Young People suggests that relevant articles from the United Nations Convention on the Rights of the Child are noted by public libraries, including:

- Article 13: Outlines the child's right to freedom of expression; to seek, receive and impart information and ideas.
- Article 29: Outlines that children have the right to develop personality, ~~talents~~talents, and mental and physical abilities to their fullest potential.
- Article 31: Recognises the right of children to leisure, play and recreational activities and the freedom to participate in cultural and artistic life.

1.2. Service Statement – Services to Children and Young People

Shoalhaven Libraries services to children and young people include:

- fiction and nonfiction ~~books~~collections in a range of formats
 - ~~magazines~~early literacy programs (for example Storytime and related activities)
 - ~~CDs~~access to the internet
 - ~~DVDs~~information services such as reference assistance and homework help
 - ~~audio books on CD and Playaway~~public space
 - ~~computer and Internet access~~events and performances
 - ~~assistance from specialist and general staff in accessing collections~~games
-
- | | |
|---|---|
| • access to resources for homework help | • space for activities and study |
| • ebooks and eresources including streaming services | • literacy programs |
| • storytimes and related activities for preschoolers and school age children | • events and performances |

1.3. Parent / Carer Responsibility Statement

1.3.1. Access to resources

The role of Shoalhaven Library staff is to guide and assist children and young people in finding and accessing resources appropriate to particular interests and inquiries.

The catalogue of the South Coast Cooperative Library Service is available through the Internet, allowing users to access the collections of the Libraries that make up the South Coast Cooperative Library Service. Various member services are also available through the WebOpac at <https://shoalhaven.libero.com.au/libero/WebOpac.cls>.

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Shoalhaven Libraries' general collection may contain publications that have been classified 'Unrestricted' and films classified 'G' (General), 'PG' (Parental Guidance) or 'M' (Mature) in accordance with the Classification (Publications, Films and Computer Games) Act 1995 (Cth). This material is available to all persons, including children and young people, without restriction.

Shoalhaven Libraries' also offers access to films via [DVD and](#) streaming services, which may include films that have been classified 'MA' and 'R'. Members under the age of 18 are not permitted to access films with an 'R' rating, and members under the age of 15 ~~may~~ [should](#) only access films rated 'MA' with the consent of their parent or guardian.

Parents / guardians / carers are responsible for ensuring that their child's selection and use of materials in the Library's general collection accords with any restrictions the family may wish to set.

Shoalhaven Libraries encourages parents / guardians / carers to consult with their child to develop clear rules regarding access to resources that accord with the family's personal values and beliefs.

The Library promotes and supports children's and young persons' access to information, including electronic information through its Internet facilities.

Library staff are available to assist children and young people in the use of the Internet, and to recommend websites on particular subjects.

Parents / guardians / carers are responsible for their child's use of the Internet. All users of the Internet, including children and young people are not permitted to access illegal sites.

Please refer to Shoalhaven Libraries Internet Usage Policy ([POL22/60](#)~~POL16/210~~) for more information about Internet responsibilities.

1.3.2. Unattended Children

Application: in this Policy, a child is defined as a person under twelve (12) years of age.

Unsupervised children can be at risk in any public place, including public libraries. Shoalhaven Libraries staff do not supervise children in the Library, and there is a risk that unattended children may leave the Library at any time, hurt themselves, or be approached by strangers. In addition, apart from emergency First Aid, the Library does not have the facilities or appropriate licenses to attend to children who are sick, injured, or hungry.

Children left unattended in ~~the Library~~ [the Library](#) may be classed as a child or young person at risk to harm under Section 23 of the Children and Young Persons (Care and Protection) Act ,1998 and may be reported as such to the Director-General of the Department of Community Services. Parents / guardians / carers who leave a child unattended in the Library are exposing their child to potential harm and may be committing an offence under Section 228 of the same Act.

Young children left alone in a library can become distressed, ~~bored~~ [bored](#), or disruptive. Young people who disturb other library users may be removed from the Library under Clause 17 of the Library Regulation 2010 under the Library Act, 1939.

~~Shoalhaven Libraries - Children's Policy~~
~~Shoalhaven Libraries - Children's Policy~~
~~Shoalhaven Libraries - Children's Policy~~

Library staff, in the event of any child left unattended in a public library at the time of library closure, will:

- Notify Council's Call Centre which will log the call, then contact the Police and/or Council's Ranger Service or Security Service, provided that all attempts to notify the parent / guardian / carer have been made prior to notifying the authorities named above.
- Two (2) staff members will remain with any unattended child until the arrival of the parent / guardian / ~~carer~~carer, or the authorities named above.

1.4. Child safe, child friendly principles

- 1.4.1. Child-safe means taking steps to keep children safe from physical, ~~sexual~~sexual, or emotional abuse.
- 1.4.2. Child-friendly means children are valued, ~~respected and~~respected and included so that they feel confident that they will be listened to.
- 1.4.3. Council ensures that the Library is safe for children from a Work Health Safety point of view and that it takes reasonable care to ensure that the Library is safe and welcoming for all Library users. Responsibility for a child's use of the Library lies with the parents / guardians / carers at all times.
- 1.4.4. Shoalhaven Libraries value eSafety and lifelong ~~learning, and~~learning and are committed to helping children and parents stay safe online. We are currently working towards being eSmart accredited. eSmart is a cyber safety framework designed to fully equip libraries, ~~staff~~staff, and library users with the skills they need for smart, ~~safe~~safe, and responsible use of digital technology.

3.5. Mandatory reporting

Under section 24 of the Children and Young Persons (Care and Protection) Act 1998, any person can report harm or risk of a child or young person aged under 16.

General Library staff are not legally required to report incidents, however, there is a legal requirement under Section 27 of the same Act for any person who participates in providing children's services to report incidents where they reasonably suspect, during the course of their work, that a child is at risk of significant harm.

Australian Institute of Family Studies: 'Mandatory reporting of child abuse' (2020) at <https://aifs.gov.au/cfca/publications/mandatory-reporting-child-abuse-and-neglect> provides more information relating to requirements of mandatory reporting in NSW.

4. Implementation

The City Lifestyles Directorate will administer this Policy.

5. Review

To be reviewed within one year of the election of a new Council.

Shoalhaven Libraries – Internet Usage Policy

Adoption Date:	10/06/2014
Amendment Date:	27/06/2017, 15/12/2020
Minute Number:	MIN17.566, MIN20.933
Review Date:	01/12/2021
Directorate:	City Lifestyles
Record Number:	POL22/60

Shoalhaven Libraries - Internet Usage Policy

1. Purpose

The purpose of this policy is to:

- Manage the provision of public access services to the Internet in Shoalhaven Libraries.
- Ensure equity of access to the Internet for library users.
- Ensure that the user understands their rights
- Provide a clear statement of acceptable use of the Internet.

2. Statement

The policy is to be read in conjunction with the Shoalhaven Library Policy and Shoalhaven Children's Policy and amendments made therein.

Shoalhaven Libraries is committed to serving the information and recreation needs of this community. Our libraries strive to provide a welcoming environment, and public access to the internet to support lawful access to information and services, access to recreational material and avenues for community engagement and participation.

3. Provisions

3.1. Access

Shoalhaven City Council provides free access to all members of Shoalhaven Libraries for one hour with the option to increase to two hours dependant on availability of computers. ~~up to 2 hours.~~

Free access to the internet through the libraries public computers requires:

- Members use their library card to login for free access. If a library card isn't presented, then a nominal fee applies.
- Non-members pay a nominal fee.
- A free standalone 10 minute express terminal is available at Nowra Library
- A free Wi-Fi service is available to all customers.
- A mobile print service is also available to all users, however printing costs apply.

3.2. Conditions of Use

- Bookings can be made up to one month in advance by phone, in person or online.
- Bookings for longer than one hour can be requested and decided by each library's manager.
- To ensure privacy, only 2 users per terminal is permitted.
- Group bookings can be made. Permission is at the discretion of each library manager.
- Earphones are to be used for listening to audio. For hygiene reasons users should supply their own earphones. Earphones can also be purchased for \$3.00
- As a courtesy to others, mobile phones should be kept on silent and any urgent calls be taken outside of the library.

Shoalhaven Libraries - Internet Usage Policy

- Shoalhaven Libraries is not responsible for any loss or damage occurring from the use of this resource, including, privacy and identity theft, the accuracy or content of web sites, technical difficulties, service interruptions, financial transactions, printing layouts or the transmission of computer viruses.
- Saving work is the responsibility of the user. Backups cannot be made on council computers so it is recommended that users bring their own external drive. Thumb drives can also be purchased from the library for \$10.00.
- All computers automatically shut down 15 minutes prior to the library closing. A warning notice appears 5 minutes before shutdown. Any unsaved work will be lost at this point and cannot be retrieved.
- Library staff can provide brief and general assistance only and are not available to send emails, type documents, fill out forms or provide tuition in any software application. The library does offer technology assistance classes that users are welcome to enquire about at their local branch.

As the Internet is provided by Council and on Council equipment the following rules apply to preserve the integrity of the service:

- a) Only Council installed software can be used.
- b) Only private non-commercial activities can be performed.

Access will be withheld if:

- Sites or content presents a risk to the network, other users or Council's operations.
- Users damage equipment or alter the set-up of computers.

Due to legislative regulations access to the Internet will be withheld if users are found to have:

- Downloaded pornographic, offensive or objectionable material.
- Used the Internet for any unlawful or inappropriate purposes.
- Modified or gained access to restricted files or data belonging to others.

The Library reserves the right to direct the client to leave the Library, not to re-enter the Library for a specified period, and to report any unlawful conduct to the relevant authorities.

Access to the Internet, including Wi-Fi, by children under the age of 16 is the responsibility of the children's parent of guardian. Junior members must be accompanied by an adult when using the Internet. The parent/guardian is responsible for monitoring appropriate use of all information technology applications, including the Internet.

Unsupervised children can be at risk in any public place, including public libraries and the online environment. Library staff do not supervise children in the library so there is a risk that unsupervised children may be subject to cyber bullying.

Shoalhaven Libraries - Internet Usage Policy

3.3. Shoalhaven Libraries and cyber safety.

Definitions

Bullying is when someone repeatedly uses their power to hurt or intimidate others. Bullying can be verbal, physical, emotional, electronic or sexual. It may be planned, spontaneous or even unintentional.

Cyber bullying is when someone is tormented, threatened, harassed, humiliated, embarrassed, or otherwise targeted by another person or persons using the Internet, digital technologies (for example: mobile phones or tablets), social media or social networking sites such as Facebook and Twitter, or any other type of digital technology.

Cyber Safety is the act of taking precautions to protect and maintain anonymity of your own and/or another person's security and wellbeing when connecting and interacting with people in an online environment.

Digital Literacy is the knowledge, skills and behaviours required to use a broad range of digital devices to critically navigate, evaluate and create information and develop new social and economic opportunities for oneself and others in the community.

Digital Technologies are electronic devices, systems and resources that generate, store or process data. In this document it includes, but is not limited to, computer workstations, notebooks, cameras, smart phones, tablets, video and audio players/recorders, social media and networking sites and cloud solutions.

eSmart means knowing how to guard against security and privacy risks online, download content in a legal and ethical way, research and reference information, as well as manage reputation and relationships in cyberspace (The Alannah and Madeline Foundation).

Social Media is computer-mediated services that are used as a means of supporting interactions among people and organisations in which they create, share and exchange information and ideas (for example: Twitter, Facebook, Tumblr, Snapchat).

Cyber Safety Overview

Shoalhaven Libraries have a responsibility to provide a safe environment to the general public that promotes respect and equality of all members of the community. Where possible, the Library will assist users with the identification and mitigation of online risks.

Staying Safe Online

To improve a user's chance of staying safe online there are certain precautions that can be taken, including;

- Keeping profiles set to private and checking settings regularly.
- Thinking about personal safety before 'checking in' or using location based services.
- Not sharing personal information and being cautious of strangers online.
- Managing digital reputation responsibly
- Respecting others and looking after each other online

(Adapted from: www.esafety.gov.au)

Shoalhaven Libraries - Internet Usage Policy

Cyber Bullying

Cyber bullying involves the use of information and communication technologies to support deliberate, repeated, and hostile behaviour by an individual or group, which is intended to harm others. Shoalhaven Libraries does not condone any form of bullying via its electronic resources and facilities. Cyber bullying can occur in the following forms:

- Flaming - sending angry, rude, vulgar messages directed at a person or persons privately or to an online group.
- Harassment - repeatedly sending a person offensive messages.
- Denigration - sending/posting rumours, harmful, untrue information about the person to others.
- Cyber stalking - harassment that includes threats of harm or is highly intimidating.
- Impersonation or masquerading - pretending to be another person and posting/sending material online to make them look bad.
- Outing or trickery - tricking a person into sending information (secrets, embarrassing and personal information that can be used to send to others online).
- Exclusion - excluding someone purposefully from an online group.
- Cyber-stalking – following someone through cyberspace. Moving with them to different sites and applications; posting where they post (Source: www.police.nsw.gov.au)

Cyber bullying can occur using the following applications:

- Email
- Social networking sites such as chat rooms, Facebook and Twitter
- Personal websites, blogs and forums
- Video and photo sharing sites such as YouTube, Vimeo, TikTok, Snapchat, Instagram and Tumblr
- Mobile phone calls and SMS

Dealing with Cyber bullying

- Block the cyber bully.
- Take a screenshot as evidence of the cyber bullying.
- Report offensive material to the website administrator or service provider.
- Talk to a friend or trusted adult.
- Report it to www.esafety.gov.au
- For more help, call the Kids Helpline (1800 55 1800) or contact the police (131 444 for non-urgent matters or 000 for emergencies) (Adapted from: www.esafety.gov.au)

Reporting Cyber Incidents

Depending on the nature of the issue, there are various methods to reporting cyber incidents. These methods are outlined on the Australian Government eSafety website and include direct links to reporting incidents.

- Website administrator – contact the website to report issues about someone or something on their site.
- ACMA – contact the Australian Communications and Media Authority to report offensive, inappropriate or illegal material on a website.
- ScamWatch – contact ScamWatch to report online scams and fraud.
- Police – report online child sexual exploitation (Source: www.esafety.gov.au)

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If you believe you or someone else is in physical danger, contact the necessary law enforcement officials.

For more information on staying safe online please visit these links:

<https://www.accc.gov.au/publications/the-little-black-book-of-scams>

<https://www.esafety.gov.au/>

To report online abuse please visit ~~this these these~~ link_s:

~~<https://www.esafety.gov.au/>~~

~~<https://www.accc.gov.au/publications/the-little-black-book-of-scams>~~

<https://www.esafety.gov.au/report>

If you have any immediate concerns please see staff at the front desk. For all other concerns please email council@shoalhaven.nsw.gov.au

3.4. Groups with specific needs using the internet.

Young people

Resources available on the internet are not subject to collection development and classification by the public libraries. Parents/guardians of young people are solely responsible for a young person's access to and use of the library's Internet facilities, including access to sites, their subject matter and content. Parents/guardians must ensure that their children's use of the Library's Internet facilities accords with the library's Internet policy.

Indigenous people

Some Indigenous clients may have concerns about information about Indigenous people presented online. It is appropriate to acknowledge the existence of this information and its potential impact on Indigenous clients.

Culturally and linguistically diverse communities

For many CALD clients the public library provides vital access to information in their first language, including government, legal and health information in translations. The library also provides a valued gateway to communication with friends and relatives and to information from home countries. In order to facilitate this service it is necessary to ensure that the fonts required are downloaded on library equipment to support access and equity for clients reading non-roman scripts.

People with disabilities

Where libraries are developing content online it is recommended that they comply with W3C Web Accessibility Initiative known as Web Content Accessibility Guidelines Version 2.0 (WCAG 2.0) to ensure that all members of a community have equal access to online information

3.5. Security

- All care is taken to ensure security on the internet, however it cannot be guaranteed. The Library takes no responsibility for any consequences, direct or indirect, arising from the use of particular sites.
- Due to Council's information technology security requirements, users may experience limitations when attempting to save or download material from the Internet.

Shoalhaven Libraries - Internet Usage Policy

- All personal devices are the responsibility of the user. Staff are not responsible for the loss or damage of personal computer devices or files contained within them.
- Users are responsible for securing their personal information i.e.: logging out of accounts and internet banking details.
- Privacy and confidentiality cannot be totally assured in the use of any online resource. Library clients and staff must be aware that the security of data and networks cannot be guaranteed. Clients must also be aware that, network and systems administrators, during the performance of their duties, need to observe the contents of certain data, on storage devices and in transit, to ensure proper functioning of the library's internet facilities and computer networks.
- Report cyberbullying to library staff.
- Do not share personal information.

3.6. Printing

- Printing is on a fee for service basis. Users undertaking printing are responsible for collection and payment of all documents. Payment is to be made before printing is released.
- Printing is only available on paper supplied by the library.
- Release of printing requires acceptance of the cost and layout of printing by the user therefore staff are not responsible for incorrect or unwanted prints and cannot offer a refund once payment has been made. Printing can be previewed before accepting the printing terms.
- Printing in the document queue will be deleted if not collected within 24 hours.
- Mobile or remote printing incurs the same fees as printing from the library PC's.

3.7. Copyright

Users accessing the Internet need to be aware that material on the Internet may be protected by copyright. Individuals are therefore personally responsible for complying with the appropriate laws (both international and federal) governing copyright material.

4. Implementation

The City Lifestyles Directorate will administer this policy.

5. Review

To be reviewed within one year of the election of a new Council.

[Shoalhaven Libraries - Internet Usage Policy](#)



CL22.241 - Attachment 3

CL22.242 Port Kembla Submarine Base - Response from Wollongong City Council

HPERM Ref: D22/212202

Approver: Stephen Dunshea, Chief Executive Officer

Reason for Report

To provide the response received from Wollongong City Council advising of their position in relation to the Port Kembla Submarine Base.

Recommendation

That Council note the advice received from received from Lord Mayor, Cllr Gordon Bradbury AM, that Wollongong City Council has not established a formal position on basing the nuclear-powered submarines at Port Kembla.

Options

1. Receive the report on the response from Wollongong City Council advising of their position in relation to the Port Kembla Submarine Base for information as recommended.

Implications:

No further action required.

2. Reconsider the original Notice of Motion CL22.163.

Implications:

Council will need to provide a new resolution.

3. Defer further consideration of the original Notice of Motion until the new Federal Government states its position on the matter.

Implications:

The response will depend on the Federal Governments decision.

Background

Council considered the following Notice of Motion CL22.163 regarding Port Kembla Submarine Base at its Ordinary Meeting on 28 March 2022:

1. *Supports the construction of a new submarine base at Port Kembla to support Australia's new nuclear-powered submarines. In adopting this position Council also condemns as reckless and irresponsible commentary describing this proposal as 'putting a target' on the Illawarra.*
2. *Notes that a submarine base located at Port Kembla will create exciting opportunities for our local defence industry to be involved in the ongoing development of high-tech capability for Australia's defence capacity and capability.*
3. *Directs the CEO to prepare a submission to the Nuclear-Powered Submarine Taskforce in support of the Port Kembla base proposal in consultation with key*

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stakeholders including the Shoalhaven Defence Industry Group (SDIG) and other Councils in our region.

4. *Directs the CEO to write to local Federal and State MPs asking for their support for this initiative.*

Council resolved that:

1. *The Notice of Motion be deferred.*
2. *The Mayor write to Wollongong City Council, seeking their formal position on the Submarine Base at Port Kembla, outlining the Notice of Motion raised at the Council meeting, and report the outcome back to Council.*

Mayor, Cllr Amanda Findley wrote to Wollongong City Council's Lord Mayor, Cllr Gordon Bradbury AM, on 2 May 2022 and on 9 May 2022 received the following response:

"Wollongong City Council's Economic Development Strategy references the defence sector as a potential driver of employment growth. There are local companies offering a wide-range of products and services to support the defence industries. I understand the armoured steel for the Collins- class submarines, Adelaide-class frigates and the Hobart-class Air Warfare Destroyers (AWD) projects was manufactured in Wollongong.

Council previously worked with the RDA Illawarra on a submission to the Federal Government to relocate naval activities from Garden Island to Port Kembla but this was for conventional submarines only.

Wollongong City Council has not established a formal position on basing the nuclear-powered submarines at Port Kembla."

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CL22.243 Women in Public Sector Leadership Summit 2022

HPERM Ref: D22/215076

Department: Business Assurance & Risk

Approver: Kevin Voegt, Director - City Performance

Reason for Report

To consider Councillor attendance at the Women in Public Sector Leadership Summit 2022 scheduled for 26-29 July 2022 in Canberra, ACT.

Recommendation

That Council

1. Notes the details of the Women in Public Sector Leadership Summit 2022 scheduled for 26-29 July 2022 in Canberra, ACT.
2. Authorises available Councillors to attend the conference and such attendance be deemed Council Business.
3. Note that all travel, registration fees, accommodation and all reasonable out-of-pocket expenses will be met in accordance with its adopted policy.
4. Request Councillors attending the conference to provide a written report within 30 days of returning from the conference.

Options

1. As per the recommendation.
2. That Council limit the number of Councillors attending the Conference and such attendance be deemed Council Business.
3. That Council does not approve Councillor attendance at the Conference as Council Business.

Background

The Women in Public Sector Leadership Summit 2022 is considered relevant to local government, Information in relation to the conference can be found via the following link:

<https://www.theleadershipinstitute.com.au/public-sector-women-in-leadership/>

Costs associated with the conference are estimated as follows:

- Registration : Early bird (until 27 May 2022) \$1,700 (conference only) to \$2,999 (includes 2 workshops)
Standard: \$1,999 (conference only) to \$3,199 (includes 2 workshops)
- Travel, accommodation and out of pocket expenses: not yet determined.

An option available to Council is to define the number of Councillors attending the conference, and for Council to determine the appropriate Councillors authorised to attend.

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This option is presented having regard to the increase in Councillor expenses in recent years, so that Council may pro-actively control this area of expenses when appropriate.

The Conference commences at 9.00am Tuesday, 26 July 2022 and concludes at 5.00pm Friday 29 July 2022 and the following Council Business is scheduled which may impact Councillor attendance to the conference:

- Ordinary Meeting – Monday 25 July 2022.

Policy Implications

The Council Members – Payment of Expenses and Provision of Facilities Policy limits attendance at conferences to three per annum per councillor exclusive of any conference arranged by either the State or National Local Government Associations.

Financial Implications:

Funds are available for Councillors to attend this conference.

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CL22.244 DPOP 2021-22 - Quarterly Performance and Budget Report (January - March)

HPERM Ref: D22/227742

Department: Corporate Performance & Reporting
Approver: Kevin Voegt, Director - City Performance

Attachments:

1. Delivery Program Operational Plan - Quarterly Performance Report 2021/22 - January to March (under separate cover) [⇒](#)
2. Quarterly Budget Review Statement - March 2022 (under separate cover) [⇒](#)
3. Capital Project Status Update - April 2022 (under separate cover) [⇒](#)
4. Completed Notices of Motion / Mayoral Minutes report (councillors information folder) [⇒](#)
5. Uncompleted Notices of Motion / Mayoral Minutes report (councillors information folder) [⇒](#)

Reason for Report

This report outlines Quarter 3 performance (January to March 2022) against actions and targets set in Council's 2021-22 Delivery Program and Operational Plan (DPOP). Also, in accordance with Regulation 203 (1) of the Local Government (General) Regulation (2021), the responsible accounting officer must prepare and submit to Council, a Budget Review Statement after the end of each quarter. This has been carried out for the third quarter of the 2021/22 financial year.

The report also includes a response to the Mayoral Minute 22.5 tabled at the Council Meeting on 28 March 2022, outlining projects which could be postponed diverting funding to urgent road repairs, the budget impact of not applying the Special Rate Variation and administration of natural disaster payments.

Recommendation

That Council:

1. Receive the March Quarterly Performance Report on the 2017-2022 Delivery Program and 2021-2022 Operational Plan and publish on Council's website.
2. Receive the March 2022 Quarterly Budget Review Report.
3. Adopt the budget adjustments as outlined in the March 2022 Quarterly Budget Report Document.
4. Discontinue temporary amendment to the Local Preference Policy that was originally adopted by Council on 11 February 2020.
5. Resolve to allocate \$2.778M of the General Fund towards the 2021/22 maintenance budget in order for Council to continue repairs post weather event. The funds to be allocated from the capital projects listed in this report with the identified capital projects to be carried-forward in 2022/23 financial year. This approach will warrant that Council's unrestricted cash position remains unchanged and Council continues to operate within a financially sustainable balanced budget.
6. Notes the impact of not applying the Special Rate Variation on the roads maintenance budget.
7. Notes the Natural Disaster payments that Council qualifies for.

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8. Notes that the Natural Disaster that was declared in the 6 March 2022 is still unfolding into Q4, as rain continues to damage public infrastructure and the repair bill estimate currently exceeds \$50million.
9. Commends the dedication and commitment of the outdoor workforce who have been working under extremely challenging circumstances to repair roads and other infrastructure, and to maintain service provision during this extended wet period.

Options

1. Adopt the recommendation

Implications: Nil.

2. Adopt an alternative recommendation

Implications: Staff will be required to rework the quarterly performance and budget report in accordance with the alternative resolution.

Background

Section 404 of the Local Government Act 1993 requires the General Manager (Chief Executive Officer) to provide progress reports to the Council with respect to the principal activities detailed in the Delivery Program (Operational Plan) at least every 6 months. Furthermore, all councils must continue to consider a Quarterly Budget Review report.

Clause 203 of the Local Government (General) Regulation 2021 requires the Responsible Accounting Officer (Chief Financial Officer) to prepare and submit to the Council, a Quarterly Budget Review Statement that shows, by reference, the estimates of income and expenditure set out in the Operational Plan and a revised estimate of the income and expenditure for the full financial year.

The Responsible Accounting Officer is also required to report as to whether they believe the financial position of the Council is satisfactory, having regard to the original estimate of income and expenditure.

The March 2022 Quarterly Budget Review Statement (QBRS) includes an analysis of the year-to-date result and the reasons for the major variances from the previously adopted Budget, by fund and for each Directorate. Any proposed changes to the budget are included in the attached March Quarterly Budget Review Statement.

Summary of DPOP Performance

The following performance has been measured on 31 March 2022 across each of the key themes outlined in the Community Strategic Plan - Shoalhaven 2027.

Theme	Progress snapshot
Resilient, safe, and inclusive communities	88% actions on track or completed
Sustainable, liveable environments	92% actions on track or completed
Prosperous communities	80% actions on track or completed
Responsible governance	91% actions on track or completed

Key Highlights

Council has consistently delivered a range of services, projects and activities which work towards achieving the 10 priority goals outlined in Council's Delivery Program 2017-22.

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Performance comments are provided in the report against each of the 157 actions and related targets in Council's 2021-22 Operational Plan.

The complete DPOP Quarterly Performance Report (January - March) is included as **Attachment 1**.

Significant achievements between January and March 2022 include:

- Official opening event at Boongaree Nature Play Park hosted in January 2022
- Council's Glass Recycling Plant awarded the Environmental Enhancement Project at the 2022 Institute of Public Works Engineering Australasia (IPWEA) Excellence Awards
- 90% of the public swimming pool inspections have been completed resulting from a tremendous effort by staff following the program being on-hold during COVID-19 restrictions
- Two new Bushcare Group Action Plans have been drafted and distributed to stakeholders for review
- Major waterways improvement projects currently in design include Callala Bay Boat Ramp, Myola Boat Ramp and regional boat ramp design options for Orient Point
- Ulladulla Town Centre DCP Amendment (update) finalised
- Campaigns such as the 100 Beach Challenge, Conscious Traveller, and Visitor Guide helped disperse and educate visitors during summer, whilst the Art and Culture campaign promoted Autumn visitation
- Round two of Event Support Funding went live in January 2022 with twelve tourism events being supported with an estimated return-on-investment equating to \$24.8 million
- Shoalhaven's drinking water judged as the best tasting in NSW / ACT at the Water Industry Operators Association of Australia conference
- Shoalhaven confirmed as the cheapest typical residential bill for water supply when compared with all other large water utilities across Australia
- The dedication and commitment of the outdoor workforce who have been working under extremely challenging circumstances to repair roads and other infrastructure, and to maintain service provision during this extended wet period

Behind Schedule or Needs Attention

The following twelve (12) Action items have been reported as behind schedule as at 31 March 2022 and require attention. Full performance comments are in the attached report and remedial actions have been reported to senior management.

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
1.1.01.02	Inspect Asset Protection Zones and Fire Trails for compliance against bushfire mitigation guidelines	Council staff have assessed 54 APZ's this quarter to ensure maintenance obligations are being met on Council land. Staff inspections were prioritised to weather related activities, resulting in only 54% of inspections being achieved against a target of 75%

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Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
1.1.06.01	Perform the duties required to ensure the satisfactory operation of On-Site Sewage Management Systems	The program is behind due to only essential inspections being completed while under COVID-19 stay at home orders. COVID-19 had direct impacts on staff leave, grant-funded project demands and on-going wet weather saturating the soil profile and making it difficult to complete an accurate assessment of system performance
1.3.01.01	Undertake scheduled park servicing as listed in the Maintenance Management System	Park maintenance crews have performed extremely well in Q3, considering the weather conditions. The weather has caused localised fast growth; however, the East Coast Low has reduced the areas that can be maintained due to water retention in the soil
2.1.04.01	Provide a safe and efficient active transport network of pathways for cycling, walking and various travel needs	The broader review of the PAMP - Bike Plan strategies is in progress. Additional budget will be required in 2022/23 to complete the review process, and a grant application has been submitted to facilitate this. Once the outcome of the grant application and resourcing needs is determined the broader PAMP – Bike Plan review can be completed (planned for 2022/23)
2.2.02.01	Assess and determine development applications within legislative timeframes and community expectations	The KPI for this quarter is below the target. Continue to improve processing times through recruitment, continual review of the DA assessment process, and working with the Department of Planning and Environment to ensure agency referrals are received in a timely fashion
2.3.03.03	Implement Council's Walking Track Asset Management Plan	Bushwalks AMP 10-Year Action Plan reviewed in February 2022 as part of the Capital Works Budget process. Focus for 2021-22 is now on Bens Walk track condition due to level of risk, popularity of walk and La Nina weather effects over the summer. This work will be costed and scheduled for completion prior to July 2022. Remaining planned bushwalk upgrades will recommence in 2022-23, depending on budget outcomes, resources and weather.
3.1.02.01	Investigate, facilitate and develop economic development and infrastructure projects that meet the objectives of relevant federal and state government grants	Federal announcement of \$372M towards Princes Hwy Milton-Ulladulla Bypass announced. Rains during the quarter have seriously affected east / west crossings of Illawarra Escarpment through land slips. Routes through Kangaroo Valley and Macquarie Pass are closed to heavy vehicles and will be for several months. Lobbying is required to State & Federal government agencies to secure funding to make the route based on MR92 suitable for heavy vehicles through Queanbeyan Palerang Regional Council and Goulburn Mulwaree Council up to Higher Mass Limits (HML) standard between Nerriga and Tarago

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Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
3.1.05.01	Maintain Holiday Haven Revenue at record 2020-21 level	Due to COVID-19 lockdowns and ongoing flooding, revenue figures are lower than budget target
3.1.06.01	Strategic Planning Works Program to activate and strengthen Shoalhaven's CBD's and town centres	Range of projects underway or progressing. Focus to remain on the Nowra Riverfront Precinct and supporting the Nowra Riverfront Advisory Taskforce. Ulladulla Town Centre DCP Amendment (update) finalised. Work on review of Nowra CBD Building Heights needs renewed focus due to competing priorities
4.1.06.01	Construct Sewer & Water infrastructure to support Moss Vale Road Urban Release Areas	Wastewater construction progress being hampered by weather conditions. Project due for completion in July 2023. Water supply design work at 80% completion and tenders being developed for reservoir and pumping station
4.2.08.01	Provide Corporate Systems transformation through the implementation of TechOne's OneCouncil System	Customer Request Management is in progress and user testing is scheduled to commence in June 2022. For Development related processes due to be rolled out in City Development, the system is very close to completion. To accommodate Finance staff availability for testing during EOFY and the Financial Statement Audit, the implementation has been rescheduled to October 2022. Other system modules that were due to be implemented after DA's (i.e., Licenses and Permits, Approvals, Enforcements and Certificates) will be implemented in a phased manner from May through to December 2022.
4.2.10.02	Update the Shoalhaven City Council Property Strategy	It is intended to pursue a new Property Strategy, that takes a different strategic approach and direction to the previous 2016/2017 Property Strategy. Early works continuing ahead of internal dialogue and discussion with Council

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On Hold

The following five (5) Action items have been reported as on hold.

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
1.1.07.02	Review and update State Emergency Service and Rural Fire Service Building Services Agreements	The relationship with SES is progressing well and key priorities understood. Recent RFS staff movements have prompted re-establishment of the engagement process with RFS representatives, who are encouraged to process all correspondence through one key contact. This has been successful in the past when submitting work requests and managing the budget

Ref.	Action	Quarter 3 Comment (summary) Full comments in attached report
1.3.03.03	Review and update the Community Infrastructure Strategic Plan (CISP)	A report recommending the update of the CISP to incorporate legislative changes, changing priorities, and incorporate consultation from various community groups has been prepared for internal review. The format of how the CISP, including the ownership of the document and the agility of the document, will be determined through internal consultation. The timeline for review and delivery of the CISP requires review and will incorporate the Play Space Review
1.3.03.04	Review and update the Play Space Strategy and Renewals Program	The Play Space Strategy will be incorporated into the revised CISP, which is due to be reviewed
4.2.03.02	Review and implement Council's Media and Social Media Policy	The Executive Management Team endorsed adopting the Office of Local Government's draft social media model finalised policy. Council is awaiting the OLG's public consultation on the draft media policy. Once available the Communications and Media team will prepare a report to the EMT and Council for endorsement. This draft is currently on exhibition with OLG.
4.2.06.05	Commence planning for consolidation of Council's name and address register	Currently on hold pending the identification of name and address data sources and implementation of TechOne / OneCouncil Request Management.

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Additional Operational Plan Actions arising from Notices of Motions (NoM's)

Between 1 July 2021 and 31 March 2022, Council has endorsed 75 Notices of Motion (NoM's) which can be categorised as follows:

- 55 NoM's relate to information, donations / community support, maintenance / traffic requests, advocacy or Development Application call-ins and covered in business-as-usual operations.
- 19 NoM's relate to projects that required additional resources being added to the Operational Plan 2021-22. These Actions can be further categorised into the following areas:
 - Infrastructure Upgrades (4)
 - Forward Planning (12)
 - Land-use (3)

In addition, there are 14 NoM's remaining from the 170 NoM's endorsed in 2020-21 which are currently categorised as 'in progress'.

Funding was allocated to the respective projects during the Quarterly Budget reviews. The full report of Completed and Uncompleted Notices of Motion's have been attached as **Attachment 4** and **Attachment 5**, respectively.

The progress of capital works was severely impacted by the recent East Coast Low weather pattern, which has brought unprecedented rainfall across all coastal areas in NSW. Due to continuous rainfalls and floods, construction works had to be put on hold, once the weather

has improved, Council had to prioritise emergency works to ensure communities can be accessed and resources delivered to those most in need.

To date, Shoalhaven City Council teams have logged 2,600 sites of damage across more than 250 kilometres of roads, making the civil infrastructure damage for this natural disaster larger than that of the Currowan fire in 2019/2020.

March 2022 Quarterly Budget Results Overview

Shoalhaven City Council was severely impacted by the recent East Coast Low weather pattern, which has brought unprecedented rainfall across all coastal areas of NSW making the civil infrastructure damage for this natural disaster exceeding \$50M which is larger than that of the Currowan fire in 2019/20.

Council has reprioritised works to ensure communities can be accessed and resources delivered to those most in need. Council is focusing on repairing critical community infrastructure that was damaged as a result of the natural disaster and this change in priorities has a direct impact on allocations of the Council budget.

It is important to note that whilst the majority of costs to rebuild infrastructure will be recovered by Council via NSW Disaster Assistance Arrangements, some of the maintenance expenses, such as employee costs other than overtime, are not eligible for reimbursement from the State and Council will need to fund them from its own budget.

As emergency repairs are taking priority over the planned capital works program, a significant number of capital projects have to be postponed until next financial year with some of the funds to be redirected towards emergency maintenance works. Maintenance budgets for roads, tree management, and open spaces require significant increase so Council can continue with the urgent works. All major March Quarterly Budget Review adjustments that are outlined further in this report are focused on realigning current budget with these new organisational priorities, whilst ensuring that Council remains financially sustainable.

As a result of emergency repairs and historic maintenance budget shortfalls the General Fund operating expenses are 2.4% above the year to date adopted budget (\$197M actuals vs. \$192M budget, unfavourable) mainly due to an increase in roads maintenance costs (\$900K), tree management costs (\$735K), parks maintenance costs (\$1.6M), public amenity cleaning (\$561K) and legal costs and government levies (\$533K). The shortfall of \$4.3M in operating expenses will be partly addressed by the proposed budget adjustments in this quarter's review using various funding sources, including, redirecting savings from completed capital projects (\$800K) and capital projects that will be carried forward into the next financial year (\$2.5M).

Additional information is included later in this report in response to the *Mayoral Minute (22.5)* on the projects that could be postponed in order to fund urgent road repairs post the East Coast Low weather event.

The General Fund revenue is currently 1.4% behind year to date adopted budget. As reported in the previous Budget Quarterly Review report, community facilities and tourist parks were closed due to lockdown and no revenue budget adjustments were proposed in the December quarterly review as it was expected that Council will recoup some of the lost income in the next quarter. Based on the March budget results, out of the \$4.2M revenue loss reported in December, Council will recoup \$600K, and the remaining shortfall of \$3.6M will be partially (\$2.8M) addressed in this budget review through deferring capital projects (\$2.4M) and operational expenditure savings. The COVID subsidy for development applications has affected the budget with a shortfall in income of \$802K. As reported in the monthly investment reports, the interest earned is below budget due to the slower than expected recovery of the interest rates and the volatility of the long-term growth fund. The long-term growth fund has more exposure to the international markets where there is a

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number of escalating risks, all manifesting at once. The fund is expected to return an average of 6.0% per annum over a seven-year cycle, the current capital reduction is expected to be made up in the future.

Water and Sewer funds budget results are close to the budget forecast with the revenue and operating expenses slightly exceeding budget.

The March budget results indicate that the Council is in a strong budget position and remains financially sustainable with an acceptable level of working capital and a sufficient level of unrestricted cash.

The working capital position of the General Fund as at 31 March 2022, is **25%** of the current liabilities above the **benchmark of 10%**:

Description		(\$'000)
Add	Current Asset	138,598
Less	Current Liabilities	53,592
Calc	Net Current Asset	85,006
Less	External restrictions	68,046
Less	Internal restrictions	24,983
Add	Provisions (Liabilities not expected to settle in 12 months)	21,663
Calc	Available working capital	13,640
Calc	Working Capital as a % of Current Liabilities	25%

Management continues to monitor the working capital position of the Council and continues to report on the key liquidity indicators to the Council on a monthly basis.

Financial Impact of COVID-19

To assist residents during the unprecedented times of the COVID-19 pandemic and as well as supporting the recovery of the region, Council has endorsed an extensive Financial Relief Package. The financial impact of various financial assistance measures and impact of COVID-19 restrictions on the year-to-date budget results is summarised below:

(\$'000) Unfav/(Fav)	*YTD December	YTD March
DA fees waived	528	802
Rent reduction – full year impact	156	156
S7.11 subsidy	572	943
S64 subsidy	435	608
Total impact of Council COVID-19 Assistance Policies	1,691	2,509
Holiday Haven income reduction	3,188	2,200
Holiday Haven expenditure reduction	(1,110)	0
Swim Sport and Fitness income reduction	718	670
Swim Sport and Fitness expenditure reduction	(231)	0
Entertainment Centre income reduction	474	1,000
Entertainment Centre expenditure reduction	(172)	(583)
Total impact of COVID-19 Restrictions above	2,866	3,287
Grand Total (net loss)	4,557	5,623

*As reported to Council in December Budget QR.

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General Fund Budget and Quarterly Review Movements

The net operating result before capital grants and contributions of the General Fund as at 31 March 2022 Quarterly Budget Review, was a surplus of \$15.6M, a \$6.4M unfavourable variance to the budgeted \$22M. This unfavourable variance is largely driven by the loss of tourist park revenue as a result of COVID-19 and additional emergency maintenance works. It is important to note that the March Quarterly Budget adjustments will address the majority of the unfavourable budget variations.

The unrestricted cash balance movement was \$2.3M less than the budgeted amount of \$1.4M (unfavourable). The primary reason for this unfavourable movement is lower than anticipated cash inflow from Tourist Parks, Swim Sport & Fitness and the Entertainment Centre in the first half of the financial year.

The following table presents a high-level summary of the budget and movements for the General Fund for 2021/22:

Favourable / (unfavourable) (\$'000)	Current Adopted Budget	March QR Adjustments	March QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	79,880	942	80,822	40,836	39,433
Net Operating Result before Capital Grants & Contributions	(8,648)	(5,056)	(13,704)	21,981	15,588
Net Cash & Investments Movement	(35,897)	22,530	(13,367)	(56,980)	(26,907)
Unrestricted Cash Movement	(213)	(0)	(213)	1,416	(929)

The main contributing factor for the change to the operating result before capital grants and contributions is a reduction in Tourist Parks revenue (\$2.4M unfavourable), Entertainment Centre revenue (\$973K unfavourable) and Swim Sport & Fitness revenue (\$670K unfavourable) which was partially offset by \$1.5M increase in Waste revenue.

In addition, proposed budget adjustments increase operating expenses by \$2.8M which includes increase in internal expenses of \$2.7M (unfavourable).

Capital grants and contributions budget is proposed to be increased by \$6M (favourable) to reflect \$16M of capital grants for the Far North Collector Road expected to be received in June 2022. This favourable adjustment was partially offset by removal of \$3.2M grant budget for Shoalhaven Community and Recreational Precinct (SCARP) which will be now paid directly to Public Works Advisory and rephasing some other grants into next financial year due to timing of grant payments.

It is important to note that proposed budget adjustments have NIL on unrestricted cash movement which demonstrates that Council continues to manage its budget effectively despite having to address budget shortfalls caused by the unforeseen circumstances such as COVID-19 lockdowns and natural disasters.

For a detailed list of budget variations and proposed budget adjustments please refer to **Attachment 2 – Quarterly Budget Review Statement – March 2022**.

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Capital Projects Progress Overview

Attachment 3 provides a detailed update as at 30 April 2022 on the progress of 106 major capital projects with the annual budget allocation of over \$400K for each project (total budget of \$154M) which represents 74% of the adjusted annual capital budget of \$207M.

As at 30 April 2022, 79 projects remain on track, 10 completed, 9 are under close monitoring and 8 were flagged as on hold due to pending approvals from other government bodies (e.g., Bolong Road) and other external factors.

Water Fund Budget and Quarterly Review Movements

The net operating result before capital revenue of the Water Fund is a \$738K deficit when compared to the year to date forecasted deficit of \$444K. The primary reason for this unfavourable variance is largely due to reduced Water Usage revenue caused by the excessive rain experienced over the last few months.

The net cash and investments movement has improved compared to the adopted budget. All cash held by the water fund is restricted.

(\$'000)	Current Adopted Budget	March QR Adjustments	March QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	3,891	(3,974)	(83)	2,188	1,525
Net Operating Result before Capital Grants & Contributions	(904)	(1,713)	(2,617)	444	(368)
Net Cash Movement	(12,234)	11,226	(1,008)	(8,637)	1,646

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Sewer Fund Budget and Quarterly Review Movements

The net operating result before capital revenue of the Sewer Fund is a surplus of \$8.1M when compared to the year to date forecasted surplus of \$6.4M. The primary reason for this favourable variance is the reduced expenditure on materials and services due to wet weather hampering maintenance works.

The net cash and investment movement has improved compared to the adopted budget.

(\$'000)	Current Adopted Budget	March QR Adjustments	March QR Revised Budget	YTD Adopted Budget	YTD Actuals
Net Operating Result	11,257	1,406	12,663	8,839	10,498
Net Operating Result before Capital Grants & Contributions	8,459	1,406	9,865	6,443	8,103
Net Cash Movement	(30,504)	16,856	(13,649)	(15,989)	(6,392)

Temporary Amendment to the Local Preference Policy

The Local Preference Policy was adopted by Council on 25 August 2009 and reaffirmed on 26 July 2011 and 15 August 2017.

The purpose of the Local Preference Policy was to support the Shoalhaven Local Government Area's (LGA) economic development by giving preference to local suppliers, whilst ensuring that Council achieves the best overall value-for-money in its procurement of goods and services.

With this policy, Council assessed local supplier response as if their total net cost bid was reduced by 5% with the discount capped to a maximum of \$15,000.

At the Strategy and Assets Committee meeting on 11 February 2020, Council resolved to *immediately amend the Local Preference Policy providing up to 50% weighting preferences to businesses located in the Shoalhaven, for a period of 12 months, after which an evaluation would be undertaken*. The purpose of this temporary amendment was to provide economic stimulus to the businesses within the Shoalhaven LGA in response to the 2019/2020 bushfires and the COVID-19 pandemic.

At the Ordinary Council meeting held on 23 March 2021 it was resolved to extend the temporary policy to 30 June 2021. It was further extended until 31 March 2022 at the Ordinary Council meeting held on 31 August 2021.

It is noted that over this period there was a reduction in the number of suppliers submitting tenders and an increase in the pricing. For example, some large tender packages received only 2 to 3 submissions, whilst previously we would expect 6 to 8 submissions.

As our community and businesses continue recovering from bushfires and COVID-19 and considering financial impact of the amendment on Council's budget, it is recommended for Council to discontinue the temporary amendment to the Local Preference Policy.

Mayoral Minute (22.5) response - Projects that could be diverted into urgent Road Repairs

The following information is included in response to the following Mayoral Minute 22.5 tabled at the Council Meeting on 28 March 2022:

1. *Any projects that are not tied to grant funding that could be postponed in order to divert further funding into urgent road repairs post weather event.*
 - a. *The report should also include details of:*
 - i. *The impact of not applying the Special Rate Variation, and how this will affect the budget overall and specifically the roads budget*
 - ii. *The compounding impact should Council continue to keep rates below what is required to meet the demands in service*
2. *Any Natural Disaster payments that Council qualifies for, what is included, and how will they be administered following the State Government's Natural Disaster declaration of the Shoalhaven LGA.*

Capital Projects in 2021/22 Budget

Shoalhaven City Council was severely impacted by the recent East Coast Low weather pattern, which brought unprecedented rainfall across all coastal areas of NSW, causing civil infrastructure damage to exceed \$50M. As requested, Council staff have reviewed the current capital works program to identify capital projects funded from the General Fund that could be postponed, to divert further funding into urgent road repairs post the recent weather event.

The list below includes committed and uncommitted projects that will need to be deferred until the next financial year. Council will not be able to deliver the following projects this financial year due to weather conditions that caused significant delays in construction schedules. A key priority for Council is repairing critical community infrastructure, restoring access and allowing resources to be delivered to those most in need.

It is proposed to allocate \$2.778M of the General Fund towards 2021/22 maintenance budget for Council to continue repairs post the weather event. The funds to be allocated are from the following capital projects that were completed or are to be carried-forward into the 2022/23 financial year. This approach will warrant that Council's unrestricted cash position remains unchanged and Council continues to operate within a financially sustainable balanced budget.

Program	Project	Budget (\$'000)
Projects commenced and to be carried-forward and funded from general roads allocation for 2022/23		
Depot Improvements	Depot - Council Wash Bay Sewer Connection Urban Upgrade / New	27,786
Depot Improvements	Erina Road, Woollamia - Office Extension Woollamia	225,000
Coastal Programme	Coastal - Foreshore Disabled Access Improvements Upgrade / New	43,000
Waterways Infrastructure	Bendalong & Kioloa – Fishing Access Improvements	10,000
Waterways Infrastructure	Bangalee Wharf Stair Renewal	30,000
Waterways Infrastructure	Ulladulla Harbour Asset Renewals	275,000
Waterways Infrastructure	Myola – Catherine Street – Renewal – Boat Launching Ramp & Pontoon	98,750
Waterways Infrastructure	Callala Bay - Widen Boat Ramp and new walkway - Lackersteen Street	90,250
Natural Areas Infrastructure	Natural Areas - Strategic & Tactical Fire Trail Upgrade	54,000
Roads Strategy Projects	Nebraska Estate Road Construction	12,853
Pathways	Pedestrian Facilities - CPTIGS - Accessible PT 2019-21 Bus Infrastructure	80,000
Pathways	Nowra - Kalandar Street - Shared User Path - Highway to Kinghorne Street	10,000
Pathways	Vincentia Safety Improvements	110,000
Roads to Recovery Program	Culburra - Culburra Road (R2R) - CH 1.760 to 2.700km	266,600
Regional, Sub-Arterial and Industrial	St Vincent Street - Roads Strategy CP05ROAD4008 Urban New	43,792
Local Road Repair Program	Worrigee - Worrigee Road - Fixing Local Roads Program	444,000
Projects NOT commenced and to be carried-forward and funded from general allocation for 2022/23		
Coastal Programme	Shoalhaven Heads Viewing Platform	26,250
Waterways Infrastructure	Waterways - Fishing Cleaning Facilities Renewal	10,000
Waterways Infrastructure	Shoalhaven Levee Restoration Works	20,000

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Program	Project	Budget (\$'000)
Drainage	Millards Creek / Ulladulla Harbour - Drainage GPT Water Quality Urban Renewal	50,000
Drainage	Cornfields / Anglers Parade - Drainage Urban Upgrade	18,000
Drainage	Nowra - Hyam Street - marshland water quality assessment	10,182
Drainage	Prince Edward Avenue - Drainage Skate Park Water Quality Urban Upgrade / New	8,000
Drainage	Croobyar Road - Drainage CH0.96 Culvert Widen Urban Upgrade / New	10,000
Bridge Program	Hillcrest Avenue, South Nowra – Bridge Repairs	12,807
Public Carpark Construction	Sussex Inlet - Sussex Road - Boat ramp car park renewal	40,000
Kerb & Guttering Programme	Lockhart Avenue, Mollymook Beach – Kerb & Gutter Replacement	6,400
Kerb & Guttering Programme	Seaview Street, Mollymook – Kerb & Gutter Replacement	24,000
Pathways	Princes Highway South Street Ulladulla Pedestrian	144,785
Urban Roads	Local Road Repair Program (LRRP)	171,500
Urban Roads	Old Southern Road - LRRP Browns Road/ Twin Waters Southern Urban Renewal	98,000
Urban Roads	Pengana Crescent – Kerb & Gutter Urban Renewal	10,400
Urban Roads	Surfers Avenue – Kerb & Gutter Urban Renewal	25,800
Completed Projects with the Budget Savings		
Drainage	Lake Conjola Entrance Road - Culvert Upgrade	367
Drainage	Curtis Street / Village Drive - Ulladulla - Drainage	909
Drainage	Bowen / Sydney Street Drainage (\$7.11)	22,021
Bridges	Tumblebar Creek Bridge Replacement	247,471
R2R	Orient Point Road, Culburra Beach - Road Rehabilitation (Design & Construction)	14
Drainage	Lake Conjola Entrance Road - Culvert Upgrade	367
Total		2,778,304

It is important to note that the projects listed above (apart from the completed projects that have budget savings) will be carried-forward into 2022/23 and will be funded next year from the general capital works allocation for roads and bridges listed below as contained in the draft 2022/23 Budget currently on exhibition.

Project Description	Source	2022/23 \$
Local Road Repair Program	SRV/GF	834,425
SRV Resurfacing	SRV	1,318,368
Bridge Program Various Bridge Concrete Culverts	GF	80,000
Local Road Repair Program - Resurface	GF	610,600
Steel arch refurbishment - Various Locations Upgrade	GF	250,000
Total allocated in 2022/23 for the general program of works		3,093,393

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It is important to note that in the absence of any further identified funding source, projects that were planned to be delivered in 2022/23 from the above listing funding sources will be further deferred and re-prioritised in future years capital works programs.

Impact of not applying the Special Rate Variation and how this will affect the budget overall and specifically the roads budget

Shoalhaven City Council has an approved Special Rate Variation (SRV) that was not taken up in the 2020/21 and 2021/22 financial years and can apply S511 of the Local Government Act to catch up on the shortfall in the 2022/23 financial year. The Special Rates Variation, if taken up in 2022/23, will generate an additional \$2.4M of revenue.

While Council has an opportunity to catch up on the SRV in future years, the revenue that could have been collected in previous years cannot be recouped along with the compounding impact of the rate peg.

As outlined in the Draft 2022/23 Budget, this additional revenue will be fully utilised in the infrastructure maintenance areas.

Whilst \$2.4M will not suffice to address the infrastructure renewal / backlog funding shortfall, this permanent increase in the roads and buildings budgets will significantly reduce the funding gap. Along with building a strong foundation for developing future budget strategies, focused on the continued improvement of the condition of assets.

Conversely, not taking up the SRV in the 2022/23 financial year will result in further deterioration of roads and other assets, as no alternative source of revenue is available to fund the renewal or maintenance budget. This will result in a further increase of infrastructure backlog and deterioration of infrastructure assets.

The compounding impact of not taking up the SRV are:

- The budget is reduced by \$2.4M of additional maintenance budget
- Council had an option to take up the SRV in the 2020/21 and 2021/22 financial years, however, resolved to apply the rate peg only. As a result, the Council's maintenance budget, primarily for roads, was reduced by \$4.8M in total as at 30 June 2022

Financial Year	SRV Base (\$'000)	Rate Peg	Revenue Lost (SRV base x Rate Peg) (\$'000)
2020/21	2,384		2,384
2021/22	2,441	2.0%	2,432
Total Revenue Foregone as at 30 June 2022			4,816

- If Council does not take up the SRV in 2022/23, this amount will increase to \$7.3M in total

Financial Year	SRV Base (\$'000)	Rate Peg	Revenue Lost (SRV base x Rate Peg) (\$'000)
2020/21	2,384		2,384
2021/22	2,441	2.0%	2,432
2022/23	2,490	1.7%	2,473
Total Revenue Lost as at 30 June 2023			7,289

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Available Natural Disaster Payments to Council

In March 2022 Shoalhaven City Council received an upfront payment of \$1M under the Local Government Recovery Grants program.

The grant was provided to Council as financial assistance towards supporting restoration and recovery projects that best meet the needs of the community following the March 2022 severe weather event and the ensuing “rain bombs” that lasted for another three weeks. Of the \$1M of grant funding, \$900,000 has been allocated to fund emergency and immediate reconstruction works, and \$100,000 targeted for a specific Kangaroo Valley Business Recovery Plan. This grant program is administered by the Office of Local Government and expenditure is required to be completed by 30 June 2024.

The other payments that Council receives following the declaration of a natural disaster in the LGA are from the Disaster Recovery Funding Arrangements (DRFA).

The main category that Council claims under this program is Category B, which aids Local Governments for the restoration of essential public assets. These payments are administered by the Public Works Authority / Environmental Protection Authority and Transport for New South Wales on behalf of the Federal Government.

Council is required to submit a claim for each individual piece of infrastructure that is damaged, which is then reviewed by the administering authority and either approved or an agreed modification. Council can then undertake the works up to the agreed approval value. Council has up to two years to claim for these works.

Conclusion

This financial year has seen some extraordinary events that have heavily impacted on Council's budget. In the December quarterly budget review, the impact of COVID and continued wet weather on the closure and low occupancy of Council's tourist parks and facilities was reported to have an impact on income of \$4.2M with some potential expenditure offsets of \$1.3M.

Following the December quarterly review there has been unprecedented rainfall causing a strain on roads, parks and tree maintenance of \$3M. The March quarterly review has identified \$4.9M in deferred capital works, \$800K in capital works savings and \$300K in operational savings to fund this additional cost or revenue shortfall.

As at this review, there remains and estimated \$2.2M in income shortfalls/cost overruns yet to be offset. This shortfall is still under review and will be reported on further at the June quarterly review.

Communication Strategy

Subject to Council's endorsement, the Quarterly Performance report will be made available on Council's website. A range of other communication methods may also be used to communicate the outcomes of the report including performance highlights across Council's social media platforms.

CL22.245 Post Exhibition – Finalisation of Amendment to Shoalhaven Contributions Plan 2019 – Huntingdale Park Reserve, Berry (CP2019.4)

HPERM Ref: D22/168090

Department: Strategic Planning

Approver: Carey McIntyre, Director - City Futures

Attachments:

1. Concept Plan Local Park Huntingdale Reserve Post Exhibition [↓](#)
2. Summary of Submissions - Huntingdale Park Reserve [↓](#)
3. Supporting Information - CP Amendment No.4 [↓](#)

Reason for Report

The reason for this report is to seek the endorsement of the Council to finalise Amendment No.4 to the *Shoalhaven Contributions Plan 2019* that will provide funding for embellishment of a Local Park at Huntingdale Park Reserve in Berry Project (01OREC0009). The results of the public exhibition of the draft amendment and concept plan are discussed in the report.

Recommendation

That Council:

1. Endorse and make Amendment No.4 to the *Shoalhaven Contributions Plan 2019* as exhibited, with the changes highlighted in blue at Attachment 3.
2. Continue to work with local community stakeholders during the detailed design phase for the local park and consider the suggestions of the Huntingdale Park Resident Action Group, including exploring additional funding sources for any general cost items that are unable to be funded via developer contributions.
3. Continue to explore opportunities for bus routes and bus infrastructure to service Huntingdale Park Estate as the area grows and investigate alternate funding opportunities such as grants.
4. Notify those who made a submission of this resolution and when the Amendment comes into effect.

Options

1. Endorse and make Amendment No.4 to the *Shoalhaven Contributions Plan (CP) 2019* Project 01OREC0009.

Implications: This option is recommended. The amendment will allow collected infrastructure contributions levies to be spent on embellishment of local open space at Huntingdale Park Reserve. It would also allow for the collection of additional levies from new development in the area and the detailed design and delivery phase to commence in a timely manner, in consultation with the local community.

2. Defer endorsement of Amendment No.4 to the *Shoalhaven CP 2019* – Project 01OREC0009.

CL22.245

Implications: Deferring the amendment could provide opportunities for further refinement of the local park concept plan; however, this does present an element of risk. Delays in amending the CP could lead to infrastructure contributions funds being unable to legally be spent on local park embellishments (passive open space projects) due to impending state government reforms.

3. Do not proceed with Amendment No.4 to the *Shoalhaven Contributions Plan 2019* – Project 01OREC0009.

Implications: This would result in no funding for embellishment of the Huntingdale Park Reserve open space. Ultimately, as the land has already been dedicated for the park purpose, if the amendment does not proceed, the project would need to be deleted from the CP at some point in the future. Collected infrastructure contributions funds would be distributed elsewhere within Planning Area 1, which would not be considered a good outcome for the Berry community.

Background

The *Shoalhaven Contributions Plan (CP) 2019* helps fund local infrastructure to support a growing population. Infrastructure contributions levies are payments made by developers and landowners to help deliver development-contingent infrastructure.

Amendment No.4 to the CP seeks to amend [Project 01OREC0009](#) (to become 01OREC5009) to use funds historically collected for the acquisition of the Park, which has since been dedicated, for improvements to the Huntingdale Park Reserve instead to provide local park facilities. The amendment also seeks to extend and refine the benefit area of this project to ensure new development in the area (including new residential zoned land south of Hitchcocks Lane) contributes funds to the project.

Lots 5 and 7 DP 1115338 (64 and 44 Schofields Lane) have been removed from the benefiting area as these properties are zoned for rural purposes, are not part of the Berry Growth Area and will not directly benefit from the park infrastructure. In this sense, there is no nexus.

The park will be located on land owned by Council between Huntingdale Park Road and Hitchcocks Lane, Berry. This land is currently known as Huntingdale Park Reserve and is legally described as Part Lot 914 DP 1268409 and Lot 8 DP 1188080.

Council resolved on 7 February 2022 (MIN22.93) to:

1. *Endorse the Draft Concept Plan for the passive open space area between Huntingdale Park Road and Hitchcocks Lane, Berry and the associated Amendment to the Shoalhaven Contributions Plan (CP) 2019.*
2. *Publicly exhibit the draft Concept Plan and CP Amendment for a period of 28 days.*
3. *Advise key stakeholders, including affected and adjoining landowners, the Berry Forum and Huntingdale Park Resident Action Group, of this decision and the public exhibition arrangements.*
4. *Post-exhibition, receive a report considering any submissions received, as well as a final Concept Plan and CP Amendment for finalisation.*
5. *Consider an option to build a pull-in bus bay in any future planning and project design.*
6. *Consider funding options for the project design and construction costs including any grant funding opportunities.*

The CP amendment is supported by a concept plan for the local park (**Attachment 1**). This proposed amendment funds \$1.5 million of improvements to the passive recreation area on Huntingdale Park Road at Berry, to upgrade it to 'Local Park' service level. The draft Concept Plan was informed by community feedback received during the public exhibition of the Hitchcocks Lane Planning Proposal (rezoning of land) in October 2020 – January 2021.

Upon amendment of the CP Plan, the project will move to the detailed design phase, and then staged delivery. The attached Plan provides high-level concept only and will be further refined through the detailed design phase.

Parts 5 and 6 of the 7 February 2022 (MIN22.93) resolution relate to investigations for a bus pull-in bay and bus shelter near the park area, to improve public transport functionality in the Huntingdale Park Estate, in response to community requests. These investigations are continuing, and any potential future design or works will consider integration with the local park.

No changes to the proposed concept plan have been made at this time to incorporate bus facilities as the contributions funds collected for the local park, as a passive open space project, cannot be spent on unrelated infrastructure, for example any external road redesign (catering for the wider Estate) or public transport facilities. These general costs are required to be funded using other means, and opportunities such as grant funding will continue to be explored.

Community Engagement

The CP amendment and accompanying draft Concept Plan for the local park was publicly exhibited for 28 days between 14 March to 11 April 2022.

All landowners within the current and proposed Contributions (Benefit) Area were notified of the proposed CP amendment via letter (i.e., all landowners within Huntingdale Park Estate and residential area south of Hitchcocks Lane). A public notice was also published on Council's website and 'Get Involved' platform, and the Berry Forum CCB, Huntingdale Park Resident Action Group (HPRAG) and Nowra Local Aboriginal Land Council were notified via email.

Three submissions were received during the exhibition period. Two of the submissions were from the HPRAG and one from a local household. The submissions broadly supported the local park and included various requests for changes to the local park concept plan. These requests are addressed in the submission summary at **Attachment 2** and will be considered further during the detailed design phase of the project.

One submission objected to the location of the proposed bus bay. As previously noted, bus infrastructure will not be funded via this project (and cannot be paid for using this funding stream) and will therefore be subject to a separate planning process/consideration.

Suggested post exhibition changes resulting from submissions and minor administrative changes are shown in blue at **Attachment 3**.

Policy Implications

As an existing passive recreation project within the CP, funds collected for this project can only be spent on recreational items where demand has been directly generated by new development. Any contributions levied applied must also be reasonable. This means that any additional embellishments relating to general costs or unrelated works need alternate funding sources.

State-wide principles for contributions plans require any general costs to be funded via means other than contributions charges. General costs are defined as costs that arise due to

demographic changes, higher environmental standards, or community preferences for higher service levels.

In summary, this project seeks to charge reasonable development contributions levies upon new development to fund a local park to meet community needs. Service levels for local parks are defined within the *Shoalhaven Community Infrastructure Strategic Plan (CISP) 2018*.

Any community preference for higher service levels (beyond Local Park service levels) and any additions that emerge during the detailed design phase will need to be funded via alternative means as additional development contributions will not be able to be levied. Changes to the concept plan remain possible during the detailed design phase (e.g., reprioritisation of elements, budget savings through grants etc.), and will be worked through in consultation with the community.

Financial Implications

The draft Concept Plan for the park was costed at \$1,521,332. Contributions already collected from Huntingdale Park Estate development for this project amount to \$1,240,750. The remaining cost (balance) to deliver the project is estimated at \$280,581.38 and this is to be levied on future eligible development.

Future development is estimated at 157 ETs (equivalent tenements i.e., households) and a contribution rate of \$1,787.14 per ET is proposed for future development. These levies will be indexed at the time of payment in accordance with CPI.

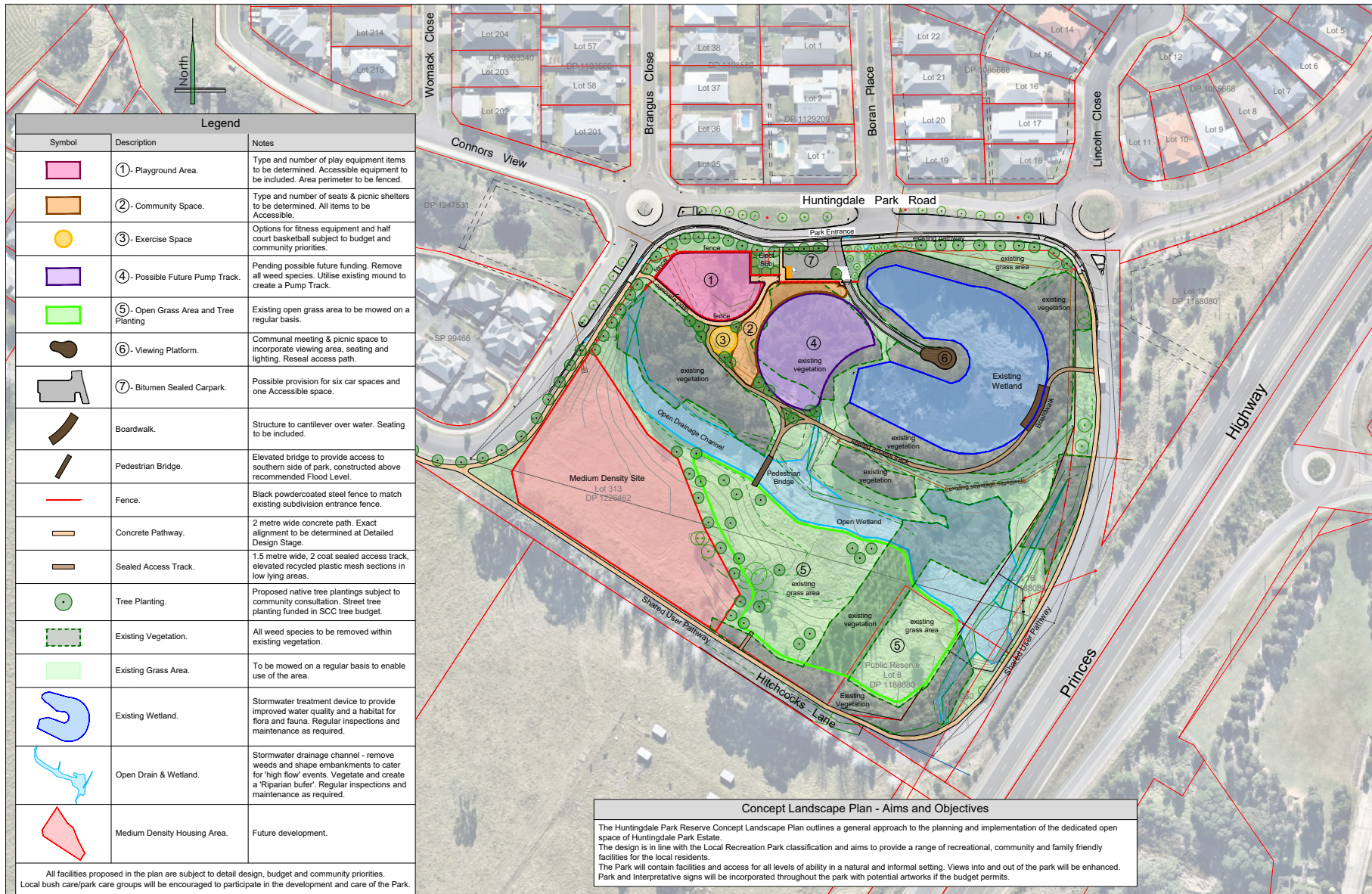
With limited amounts of funding available, prioritisation of facilities is required. There are a limited range of mechanisms available to Council to fund and deliver community infrastructure. Therefore, any additional items that add to the overall cost of the project will need to be funded through alternative means which may have budget implications for Council. These additional costs will need to be considered and weighed up during the detailed design phase of the project in consultation with the community.

Risk Implications

The key risk facing this project is that any delay in the amendment of the Contributions Plan could result in development contributions funding for the project essentially being lost (needing to be redistributed elsewhere), due to draft NSW Government's Infrastructure Contributions Reforms. Many of the proposed types of embellishments are not included in the "Essential Works List" prepared by the Independent Pricing and Regulatory Tribunal (IPART). In future, it is expected that only base level ('essential') embellishment for parks will be able to be provided using infrastructure contributions funds.

It is important to note this project is existing within the Contributions Plan, and the majority of the funds have already been collected, with the amendment necessary to enable spending of these funds on park improvements to meet the needs of this growing community.

There is uncertainty at this stage as to when the Essential Works List Criteria will be applied to contributions plans, post NSW Government Reforms (or if it will be applied at all). It is expected that should the project amendment be finalised in the current financial year (i.e., by July 2022), then the risk of the project being affected by reforms is minimised. Any changes to the Concept Plan (as requested by the community during the public exhibition) can be further explored after the crucial step of amending the Contributions Plan to secure the development contributions funding.



Place / Area Conceptual Images



Playground Area.



Community Space.



Fitness Station.



Sealed Access Track.



Nature Space.



Wetland.



Viewing Platform.

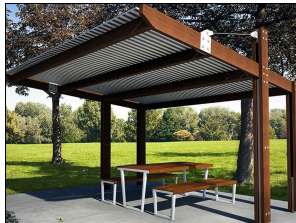


Boardwalk.



Pedestrian Bridge to Open Grass Area.

Park Furniture



Landmark - Longreach Shelter.



Street Furniture Australia - 'Mail' table setting with end access for accessible seating (AS1428.2).



Street Furniture Australia - 'Mail' seat with arm rests.



Street Furniture Australia - 240lt Bin Enclosure.

Typical Native Planting.



Tristaniopsis 'Luscious'



Glochidion ferdinandi



Callistemon species



Melaleuca species



Syzygium species



Lomandra 'species'



Grevillea species

Draft Copy

Huntingdale Park Reserve, Berry - Concept Design Palette

	<p>Huntingdale Park Reserve – Local Park Amendment – Shoalhaven Contributions Plan (CP) 2019</p>	<p>Summary of Submissions</p>
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#	Author	Submission summary	Response
1	Huntingdale Park Resident Action Group (HPRAG)	<p>Deputation to Council meeting 7-2-22 HPRAG represents >60 households in the Estate. Understand concept plan status and need to urgently amend CP. Support proposed off street parking, seating, small fenced playground and variation to CP. Would like the following included in Concept Plan now:</p> <ul style="list-style-type: none"> - Retain all local native trees. Only plant local natives. - Show more trees to be planted, more shade – especially area (5). - Retain existing community built pump track (until new facility) - Delay viewing platform and boardwalk (lower priority) - Enlarge community seating space. - Request water bubbler/water supply - Half-court basketball/netball (can reduce fitness station) <p>Request commitment from Council for bus pull in bay and bus facilities such as covered shelter. Understand not funded through this project, but want planning in place for Council to actively seek funding. Want to establish Park Care volunteer group.</p>	<p>See response to submission #3 below.</p>
2	Household Huntingdale Park Estate	<p>Commend proposal to convert unused space into local park – currently a swamp. Do not support inclusion of a pull in bus bay. Will add to traffic issues – traffic issues compounded by 10 approved townhouses, construction of local park, Hitchcocks Lane south development, people visiting park from other areas, possibility of dual occupancies. Increase in traffic volume will be insufferable and unbearable for residents along Huntingdale Park Road.</p>	<p>Support for local park noted. Bus infrastructure does not form part of this recreation project. Funding from the Contributions Plan for this project must be spent on passive recreation items only, not public transport (no nexus). Exploration of bus services and related infrastructure is being separately investigated by Council. Traffic-related concerns are to be addressed at development application (DA) stage for future development. The small local park is designed for most users to walk from the local area and will not add substantially to existing traffic volumes. Car parks are not usually a feature of local parks, however, a small car park (approx. 6 spaces plus</p>

		<p>Council must purchase unnamed link road from Department of Transport and link to Hitchcocks Lane or Schofields Lane. Need to connect Hitchcocks Lane to freeway.</p>	<p>one accessible space) has been designed in response to community requests and in recognition of limited on-street parking in area.</p> <p>Transport for NSW will dedicate Unnamed Link Road to Council in the future and road will be upgraded to service future subdivision south of Hitchcocks Lane. The area's highway connections were investigated and delivered as part of the Berry-Foxground bypass project by TfNSW – please see https://roads-waterways.transport.nsw.gov.au/projects/foxground-berby-bypass/index.html for more information.</p>
3	HPRAG (submission)	<p>Group of 110 people, 60 households.</p> <p>Understand limitations of funding, next steps are detailed design.</p> <p>Want recommendations included now. The Group is happy to assist Council.</p> <p><u>Playground Area (1) request:</u></p> <ol style="list-style-type: none"> Shade sail and shade trees Retain as much grass area as possible (reduce hard surface) Seating inside playground area <p><u>Community Space (2) request:</u></p> <ol style="list-style-type: none"> Half court basketball court and hoop – high priority Communal meeting and picnic spaces Power and water here Electric BBQ or two, security lighting Water bubbler and tap (community will help water new plants) Retain grass spaces for run-off reduction and to cool space Seating with shade and shade trees Boules (Petanque) Court. (Gravel or decomposed granite flat surface, 12x3m wide.) <p><u>Fitness Station (3)</u></p> <p>Not a high priority. Would like in another location i.e. incorporated along access track. Would prefer replacement with half court basketball and extend community space.</p> <p><u>Possible future pump track (4)</u></p> <p>High community priority. Existing rustic track constructed by community be retained until new facility can be placed (do not remove). Use contingency money to fund this quickly. Group could help with getting grant funding for this.</p> <p><u>Open grass area (5) recommend:</u></p> <ol style="list-style-type: none"> Corridors of trees 	<p>Support for overall project and assistance offer noted (park care group/grant funding assistance).</p> <p><u>Playground Area</u></p> <p>Shade for playground included in works schedule for project (see item 4.6 in CP Project Sheet Supporting Information). Significant soft landscaping (e.g. grass, tree planting) included, only increase in hard surface is carpark, playground, paths and any other items which require it for safety reasons. Seating can be included in playground area – location of seats to be shown in detailed design.</p> <p><u>Community Space</u></p> <p>A half-court basketball court can be considered for inclusion into the park, following additional consultation during detailed design. Costing of this facility will also need to occur and may require reprioritisation of spending (i.e. half court basketball to reduce funding/service level for another lower-priority item such as viewing platform or boardwalk works). This has been reflected in the updated Concept Plan and Estimated Cost Schedule (items 4.1 and 4.8) on the CP Amendment Supporting Information Sheet (see Attachment 3 of this Report).</p> <p>Communal meeting and picnic spaces are included in this area including seating and shelter. BBQs have relatively high associated maintenance costs (e.g. ongoing cleaning and power costs) and are not usually included in local parks outside of tourist areas, given small local parks are located close to park user's residences. For these reasons they are not included in the Concept Plan. Picnicking and use of portable BBQs can be accommodated on the site. Power and water are available for connection to the site if required in future.</p> <p>The design of any lighting will be explored during the next phase. Importantly lighting needs to be designed to limit spill and nuisance light and to exclude night time use of small local parks to avoid noise and antisocial behaviour complaints/perceptions.</p> <p>Any installation of water bubblers for community use could be funded via grants (which are routinely available for this purpose) so have not been included in the CP project costings.</p>

	<p>b. More consultation about trees – particularly screening area for medium density site – owners may or may not want trees here, or certain types etc.</p> <p>c. Retain native trees (not black wattles)</p> <p>d. Mature native trees along unformed Hitchcocks Lane – some tagged already – why? Would like retained.</p> <p><u>Viewing Platform (6)</u></p> <p>Must be fenced. Would prefer meeting area in community space near park (if only one such space to be provided).</p> <p><u>Car park (7)</u></p> <p>High priority for community. Should include pull in bus bay. Also can bike racks be included.</p> <p><u>General</u></p> <p>Retain as much vegetation as possible. Source mature/advanced species for shade.</p> <p>Advance money from additional contributions and develop all at once. Also use generous contingency for more facilities. Actively pursue grants. HPRAG can help with grant applications and want to form a park/bush care group. Can we remove native tree planting budget – wait and see who pays (developer) including medium density site developers.</p>	<p>A boules court could be accommodated in a flat grassy area of the site. This could be explored further during the detailed design phase as costs to install and maintain this element need to be explored further.</p> <p><u>Fitness Station</u></p> <p>Comments are noted. It is possible that money allocated for this facility could be reallocated to a higher priority item during detailed design phase. This area has been renamed 'Exercise Space' in the Concept Plan and in supporting documentation, offering flexibility to incorporate other features such as half-court basketball subject to further investigation and consultation.</p> <p><u>Pump Track</u></p> <p>A future possible pump track is shown on the concept plan, recognising an informal community-constructed track was found on site, indicating community desire for bike facilities. However, as noted on the draft plan, this is not an item to be funded by developer contributions. Pump tracks are not usually included in local parks and a constructed, formalised track exists at the nearby district facility of Boongaree. Future design and funding opportunities for this item (such as grants) will need to be explored separate to this Contributions Plan project as any future pump track represents a general cost not able to be funded via this contributions project as a higher-service-level item.</p> <p>For more information about Contributions Plan legislation and funding requirements (i.e. restrictions about what can be funded) please visit the NSW State Government website: https://www.planning.nsw.gov.au/Policy-and-Legislation/Infrastructure/Infrastructure-Funding/Improving-the-infrastructure-contributions-system/Local-contribution-practice-notes</p> <p><u>Open grass area</u></p> <p>Comments noted, concept design based on maximal retention of existing trees. Additional trees to be planted and included in project costings. Additional consultation to occur for proposed planting along medium density site boundary (this is reflected on updated Concept Plan). Two trees on the medium density site boundary were approved to be removed as part of the DA approval for the medium density development – DA20/2374.</p> <p><u>Viewing platform</u></p> <p>Comments noted – during detailed design cost savings on embellishments for this space may be explored to free up funds for higher priority items. Fencing of this area will be shown on detailed design plans.</p> <p><u>Car Park</u></p> <p>High priority noted. Bus bay is not included in concept due to further investigations on traffic requirements to be explored, and this type of infrastructure represents a general cost and cannot be funded by this Contributions Plan project. Bike racks could be included (given the proposed path network associated with the recreation area), and</p>
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			<p>it may be possible to explore funding via grants or for savings to be made on other lower priority embellishments.</p> <p><u>General</u></p> <p>Tree planting specifications are a matter for detailed design, noting smaller specimens often establish quicker and with more vigour than mature specimens due to transplant shock. Delivery and staging is to be investigated as part of Council's capital works program. Contingency funds cannot be used for additional elements (additional costs will lead to higher contingency costs). Higher contingencies are routinely included at concept planning phase due to high level of detail and greater uncertainties regarding costs. Native tree planting budget is important to contribute to greening of the park. Private developers are not obligated to plant any additional trees at this location given the Huntingdale Park subdivision is now complete and the subject land has been dedicated to Council.</p>
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Shoalhaven Contributions Plan

Project Sheet

All changes are shown highlighted (additions) or highlighted ~~strikethrough~~ (deletions).

Post-exhibition changes (in response to submissions received) are shown highlighted in blue.

Project Code	01OREC59009
Project Area/ Project Category	Area 1 / Passive Recreation
Location	Berry
Description	Land acquisition Embellishment for passive open space (west of the Princes Highway, Berry).
Strategy	To provide new and embellished passive open space to meet user needs associated with future development demand.
Project Estimate	\$1,023,400.00 in Nov 2004 Total Cost: \$1,521,332.00 in Dec 2021 Balance: \$280,581.38 in Dec 2021
Indexed Estimate	\$1,645,574.37 \$280,581.38
Apportionment	The apportionment related to the balance is 100% to development.
Nexus	The project is critical to provide public open space that meets current and future user requirements for outdoor recreational and social activity.
Supporting Information	This project is described in Shoalhaven DCP Chapter N3 Berry Residential Subdivision. See also following page/s
Land Acquisition Estimate	\$1,023,400.00 in Nov 2004 Nil
Timing	2022-2026

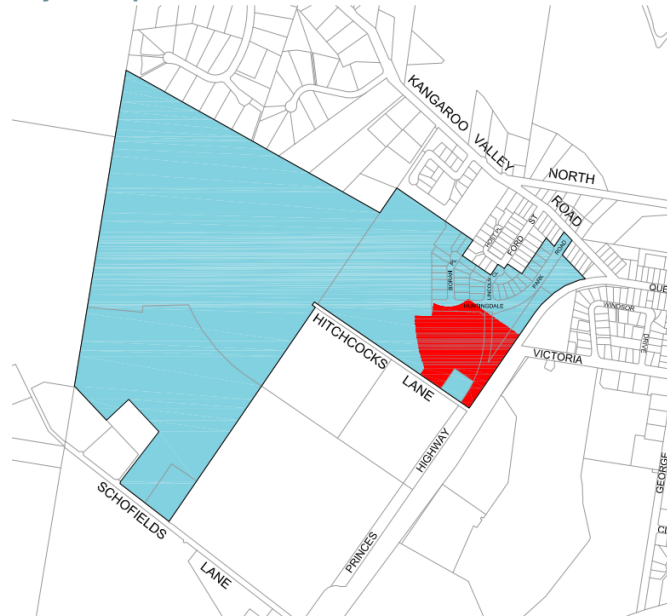
Contribution Rate

Financial Year	Contribution Rate Type	Contribution Rate	Existing ET/M2/SP	Future ET/M2/SP	Total ET/M2/SP
2021	Equivalent Tenement	\$4,784.16 \$1,787.14	300	354 157	354 457

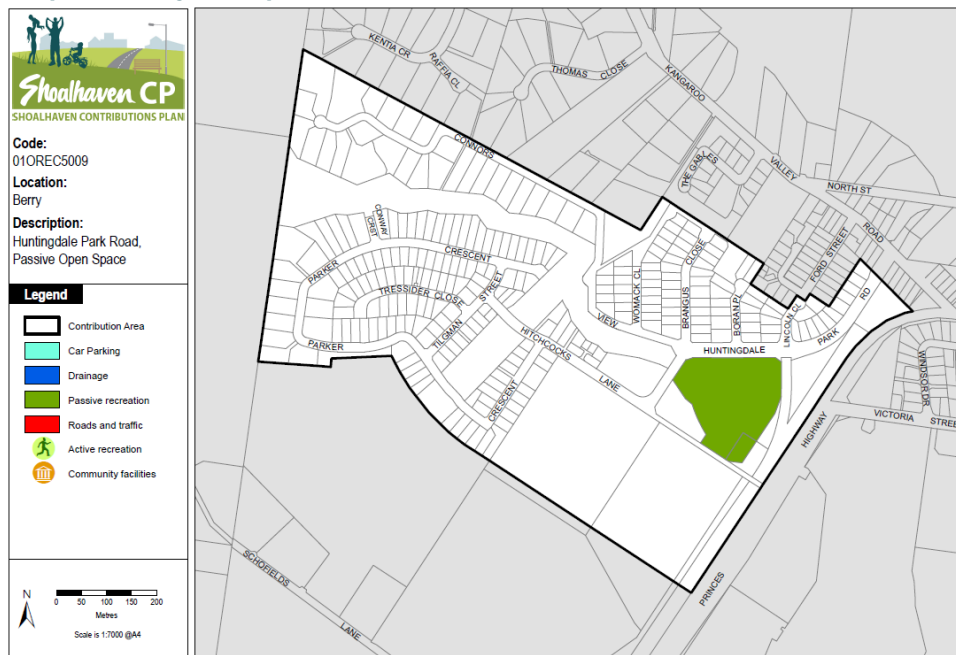


Shoalhaven Contributions Plan

Existing Project Map



Proposed Project Map



CL22.245 - Attachment 3



Shoalhaven Contributions Plan

Supporting Information

All changes are shown highlighted (additions) or highlighted-strikethrough (deletions).

Post-exhibition changes (in response to submissions received) are shown highlighted in blue.

Project Code	01OREC59009
Project Name	Land Acquisition Embellishment for Passive Open Space (west of the Princes Highway, Berry)
Project Status	Project not completed

Estimated Project Cost Breakdown as at November 2004 December 2021

Acquisition costs

Area (m ²)	Rate per m ²	Estimated Cost
34,000	\$30.40	\$1,023,400

Embellishment Costs as at December 2021

Item	Description	Qty	Unit	Rate	Amount
1	General				
1.1	General Site Establishment	1	item	\$12,000	\$12,000
1.2	Design and Project Management	1	item	\$89,000	\$89,000
1.3	Prepare and implement Site Specific & Environmental Management Plan	1	item	\$12,000	\$12,000
2	Clearing and Earthworks				
2.1	Miscellaneous landscape preparation – weeds, removal of weeds, dead tree pruning of trees etc.	1	item	\$50,000	\$50,000
2.2	Subgrade to desired levels. Utilise spoil on site if feasible.	1	item	\$8,000	\$8,000
3	Civil Works				
3.1	Construct Carpark (368m ²)	1	m ²	\$160,000	\$160,000
3.2	Concrete path around playground	192	m ²	\$165	\$31,680
3.3	Concrete path from carpark	66	m ²	\$165	\$10,890
3.4	Tracks sealed	433	m ²	\$165	\$71,445
4	Park Landscape Items				
4.1	Boardwalk / pathway (subject to funding, noting reprioritisation of funds towards other facilities is possible during detailed design phase)	106	m ²	\$950	\$100,700



Shoalhaven Contributions Plan

4.2	Construct footbridge	1	item	\$40,000	\$40,000
4.3	Viewing platform works	1	item	\$30,000	\$30,000
4.4	Supply and install seats	5	item	\$2,000	\$10,000
4.5	Supply and install playground	1	item	\$250,000	\$250,000
4.6	Supply and install shade for playground	1	item	\$25,000	\$25,000
4.7	Supply and install fencing for playground and carpark	198	m	\$230	\$45,540
4.8	Supply and install fitness stations Exercise space (fitness stations or half-court basketball or other subject to detailed design)	1	item	\$25,000	\$25,000
4.9	Supply and install bin enclosures	3	item	\$3,000	\$9,000
4.10	Supply and install picnic shelter	2	item	\$25,000	\$50,000
4.11	Community Space Works miscellaneous landscape works	1	item	\$40,000	\$40,000
4.12	Signage	1	item	\$30,000	\$30,000
4.13	Miscellaneous landscape works – restoration, planning, native tree planting (local species preferred) etc (TBC)	1	rate	\$70,000	\$70,000
5	TOTAL				\$1,170,255
6	Contingency 30%				\$351,077
7	GRAND TOTAL				\$1,521,332
8	Contributions collected to date				\$1,240,750.12
9	Balance (contributions to be collected) – 100% apportioned to development				\$280,581.38

Benefit Area(s) Assumptions

The area to benefit from the provision of passive open space between Hitchcocks Lane and Huntingdale Park Road is the local residential catchment of Huntingdale Park. This area has grown in population over the past decade and will continue to grow with new land release south of Hitchcocks Lane. The project will provide recreational space and local park embellishments within walking distance of residents living in west of the Princes Highway at Berry (e.g. Huntingdale Park Estate and the new residential area south of Hitchcocks Lane).

Apportionment Assumptions

~~*This project is apportioned 100% to development, therefore existing development is not included in the project page calculation.~~



Shoalhaven Contributions Plan

This project is apportioned 100% to development within the contributions area.

01OREC5009 Contributions Area	Huntingdale Park Estate	Hitchcocks Lane Release Area
Existing ETs	300	0
Future ETs	14	143
Total ETs	314	143
ET credits*	*300	0
Total Future ETs	157	

NOTES:

- contributions have been collected for existing development
- assume 10% of total lots developed as dual occupancies
- existing medium density developments included

Development Contributions estimated as at December 2021

01OREC00145 Benefit Area	Existing Lots	Potential Single Detached Dwellings	Potential Medium Density Dwellings	Estimated Capacity (Total)	Benefit Area Cost	2004 2020 Contribution per ET
Dwellings	11*	294	105	407	\$1,023,400	\$2,890.96
ETs	11*	294	63	365		

Actual Project Cost/Estimated Project Cost

Project not completed.

History of Amendment to this Project

None applicable.

This project supersedes the following inactive projects:

- 01AREC0007
- 01OREC0009 (Amendment #4 – project renamed 01OREC5009 and funds reallocated for embellishment of passive open space area. Hitchcocks Lane (south) residential area included in Contributions Area)

~~Draft amendment December 2021 – Funds collected for acquisition reallocated to embellishment of the passive open space area. Hitchcocks Lane (south) residential area included in Contributions Area.~~

Other Relevant Information

History of Project - Berry Gardens Estate



Shoalhaven Contributions Plan

In anticipation of development in the area west of Berry, Council prepared Development Control Plan (DCP) No. 70 to guide development outcomes of the Berry Gardens/Huntingdale Park Estate. This DCP came into effect on 25 June 1998, and identified the need for the provision of certain facilities to ensure that residential amenity standards would be achieved and that the environmental quality of the area would not be compromised. The controls of DCP No. 70 have now been incorporated into Chapter N3 of the *Shoalhaven DCP 2014*. The provision of public open space within the Estate forms part of the existing approval for residential development over the major part of project area.

Review of Project September 2020 – ~~December 2021~~ June 2022 – Hitchcocks Lane Subdivision

As part of the assessment of Planning Proposal 029 to rezone land south of Hitchcocks Lane to allow for residential development, the passive open space needs of the area was reviewed and this project updated to reflect the local recreation needs of the community west of the Princes Highway at Berry.

The total number of ETs (households) for the area is estimated at 457. Of these, 300 ETs are existing (Huntingdale Park Estate) with a further 157 ETs to be delivered (as part of the Hitchcocks Lane South development and additional infill development in Huntingdale Park Estate). As of December 2021, \$1,240,750.12 of contribution funds have been collected for the project. The delivery of the project has been costed at \$1,521,332. The balance of contributions is \$280,581.38 is to be collected from future development in the benefit area.

Note: Contribution rates are adjusted annually on 1 July to reflect annual changes to the Consumer Price Index. These rates are adjusted in accordance with the indexation formula detailed in the Contributions Plan 2019.



CL22.246 Policy for Review - POL16/154 - Private Use of Public Parking

HPERM Ref: D22/178971

Department: Technical Services
Approver: Paul Keech, Director - City Services

Attachments: 1. Draft POL22/110 - Private Use of Public Parking [↓](#)

Reason for Report

This policy review is presented to Council in accordance with the recommendations for all policies to be reviewed within the first 12 months of the new Council.

Recommendation

That Council adopts POL22/110 Private Use of Public Parking Policy as an amendment to the existing POL16/154 Private Use of Public Parking Policy.

Options

1. Resolve as recommended.

Implications: The adopted policy will be updated to reflect current Directorate titling.

2. Resolve to not adopt as recommended.

Implications: Adopted policy POL16/154 will remain, and applications will be assessed in accordance with the existing policy.

Background

POL16/154 was first implemented on 18 December 2007 in accordance with MIN07.1801. The Policy was amended on 20 January 2009, 22 October 2013, and 21 February 2017.

Council provides a combination of timed (restricted) and untimed (unrestricted) public parking spaces on public roads and within car parks for use by the community. The Private Use of Public Parking Policy sets guidelines for the exclusive private use of public car parking spaces as well as the basis for setting fees and charges for any private use.

The key changes are as follows:

1. Update references to Departments and Directorates to reflect Council's current organisational structure.

Community Engagement

None required. The proposed changes are administrative, housekeeping amendments to reflect current Directorate titling.

Policy Implications

The policy is due for review within one year of the election of a new Council. No substantial policy changes will result from the recommended changes to the policy.

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Financial Implications

The fees outlined in Council's fees and charges will continue to be collected from applicants looking to use Council's public carparking for private use.

Risk Implications

The policy has been in place since 2007/2008 and there have been no issues identified from the application.

CL22.246

Private Use of Public Parking

Adoption Date:	18/12/2007
Amendment Date:	20/1/2009, 22/10/2013, 21/02/2017
Minute Number:	MIN07.1801, MIN09.24, MIN13.1042, MIN17.104
Review Date:	01/12/2020
Directorate:	City Services
Record Number:	POL22/110

POL22 110 Private Use of Public Parking.DOC

1. Purpose

The purpose of this Policy is to:

- a. set the guidelines for the private use of public parking
- b. set the guidelines for the basis for fees charged under section 608 of the Local Government Act 1993
- c. preserve the availability of public car parking, by applying Fees and Charges for the private use of public parking.

2. Statement

Council provides a combination of timed (restricted) and untimed (unrestricted) public parking spaces on public roads and within car parks for use by the community. This document sets guidelines for the exclusive private use of public car parking spaces as well as the basis for setting fees and charges for any private use.

3. Exemption Circumstances

The details of exemptions that may or may not be provided are:

- a) No exemptions shall be granted for the Application Fee, or for the process in general
- b) A Parking Usage Fee exemption shall apply:
 - i) in all areas where parking is unrestricted.
 - ii) for all Shoalhaven City Council operations.

Note the Parking Usage Fee shall apply to all other government and public utilities authorities.

- c) 'Not for Profit' organisations may apply for a reduction or an exemption of the Parking Usage Fee.
- d) The Signage Installation and Restoration Fee shall apply for all approvals for periods of four weeks or more. There are no exemptions to this fee.

4. Criteria for Determination of an Application

- 4.1. All applications shall be received on the Application Form (Appendix 1).
- 4.2. No application will be considered until such time as payment of the Application Fee (as detailed in Council's current Fees and Charges) has been paid.
- 4.3. This Policy applies only to Council owned and controlled car parking spaces.
- 4.4. Private use of Public Parking shall only be approved for:
 - a) temporary development construction purposes,
 - b) private maintenance purposes,
 - c) public utility maintenance / construction purposes
 - d) short –term use by government departments for public information purposes eg mobile health checks'
 - e) community group activity purposes use
 - f) use by charitable organisations.

POL22 110 Private Use of Public Parking.DOC

- 4.5. Private use of Public Parking shall not be approved for any ongoing use not listed in 4.4 above. (ie Exclusive use of space to provide parking of vehicle close to business or residential premises).
- 4.6. To limit the impact on the availability of parking spaces for the public, generally, no more than two spaces will be approved at any one time.

5. Fees and Charges

- 5.1. Application Fee – as detailed in Council's Annual Fees and Charges shall be charged for all applications.
- 5.2. Parking Usage Fee, as detailed in Council's Annual Fees and Charges, shall apply in all areas where there are timed parking restrictions. Where pavement marking does not delineate individual parking spaces, a maximum of 6m in kerb length is permitted for parallel parking and 3.4m of kerb for angle parking. Payment of the Car Parking Usage Fee is required in advance of the use of the parking space/s.

If requested, the Parking Usage Fee may be reduced or waived for not for profit organisations.

- 5.3. Signage Installation and Restoration Fee shall apply for all approvals of four weeks or more. This fee is detailed in Council's Annual Fees and Charges shall be charged for each zone installed.

6. Provisions

- 6.1. In areas where there are timed parking restrictions, a Parking Usage Fee will apply for each week (or part thereof) to each parking space approved.
- 6.2. The Parking Usage Fee shall apply for use by Government authorities (except Shoalhaven City Council) and public utilities.

Period of Use

- 6.3. Requests for exclusive use of public car parking spaces for periods of less than four weeks shall be referred to the General Manager (Director, relevant group) for determination.
- 6.4. All approvals for periods of four weeks or more shall require the installation of regulatory Work zone signage to delineate the zone. Accordingly, these requests shall be referred to the Shoalhaven Traffic Committee for consideration.

Delineation of parking space/s

- 6.5. Where approval is granted for a period of less than four weeks, the applicant is to identify the affected space/s by use of traffic cones or bollards together with the approval notice clearly displayed on the dashboard of the approved vehicle. Parking spaces will not be reserved or delineated by any signage.
- 6.6. Where approval is granted for a period of four weeks or more, the applicant is to bear the full cost of installation (and subsequent removal) of 'Work zone' signage as deemed necessary by Shoalhaven Traffic Committee. The Signage Installation and Restoration Fee will be in addition to the Application Fee and Car Parking Usage Fee.

Refund of unused portion of Parking Usage Fee

- 6.7. No portion of the Parking Usage Fee will be refunded for use not required, where the approval is for less than four weeks.

POL22 110 Private Use of Public Parking.DOC

- 6.8. A pro-rata refund of the Parking Usage Fee for periods in excess of four weeks may be provided where:
- a. the applicant no longer requires the parking spaces, and
 - b. Provides two weeks notice to Council for the removal of the Work zone and the re-instatement of the timed parking restrictions signage.
 - c. the refund will only apply to full weeks of non use (after the two week notification period, or last date of required use – whichever is the latter).

Extension of period

- 6.9. Sequential applications and/or applications for an extension of the agreed period must be submitted 6 weeks prior to the expiry of the current approval period.

Penalty

- 6.10. A penalty shall apply for all unauthorised exclusive use of public parking. The details on this penalty are provided under Section 138 of the Roads Act.

7. Insurance

- 7.1. Public Liability insurance in an amount of \$20 million is to be maintained for the period of private use, noting Shoalhaven City Council as an interested party. Written evidence of a current policy is to accompany the application.

8. Repairs and maintenance to infrastructure

- 8.1. It is to be the applicant's responsibility to report, repair and / or pay for any damage to Council infrastructure, such as pavement damage, damage to signage or other infrastructure, etc.

9. Other Matters**Implementation**

The City Services Directorate has the responsibility for implementing this Policy by reviews of requests and reporting to Council for individual determination.

Review


In accordance with S 165 (4) of the Local government Act 1993, this policy will be reviewed within one year of the election of every new Council.

Application of ESD Principles

Social Integrity - the policy aims to minimise the degradation of parking facilities, particularly in areas of high parking demand, while recognising the benefit to the community via:

- a. Development and maintenance of commercial premises within these areas
- b. Provision of ad-hoc community health and other information services via mobile services.

POL22 110 Private Use of Public Parking.DOC



**Application for
Private use of public car parking spaces**
Assets & Works Group

City Administrative Centre Bridge Road, Nowra, NSW, Australia, 2541
Address all correspondence to: The General Manager, PO Box 42, Nowra, NSW, Australia, 2541 | DX 5323 Nowra
council@shoalhaven.nsw.gov.au | www.shoalhaven.nsw.gov.au | Phone: (02) 4429 3111 | Fax: (02) 4422 1816

1 Applicant

Mr / Ms / Mrs / Other: _____

Family/Company Name: _____

First Name: _____

Flat/ Street No: _____

Street Name: _____

Town or Locality: _____

State: _____ Postcode: _____

Phone: _____ Mobile: _____

Email: _____

Vehicle Registration No.: _____

Applicant's Reference: _____

3 Parking Use

Tick appropriate use of car parking

☐ Construction / Maintenance

DA Reference: (if applicable) _____

☐ Government Use

☐ Community Group / Charity Activity

This application is for the period:

from _____

to _____ (Date)

2 Location of car parking spaces

Type or parking required: On Street / Car park

Street Name / Car park Location: _____

Town or Locality: _____

Are there current Parking Restrictions? Yes / No

If Yes: 1P / 2P / 3P / No Parking / No Stopping / Other
(Circle the current parking restriction signage)

Other - Details: _____

No. of Spaces Requested: _____

Attach a location diagram.

4 Public Liability Insurance

Insurance Policy Company: _____

Policy No.: _____

Value: _____ Expiry Date: _____

Please attach a copy of your Certificate of Currency noting Shoalhaven City Council as an interested party

5 Declaration

☐ Copy of Insurance Certificate attached

☐ Location diagram attached

I/We hereby apply for the Private Use of Public Parking as described above.

Signed: _____

Date: _____

Privacy Notification: The information will be used solely by Council staff for the purpose mentioned or a directly related purpose. The applicant understands that this information is provided on voluntary basis and they may apply to Council for access or amendment of the information at any time.

This form may be published on Council's website in accordance with Government Information (Public Access) Act 2009

OFFICE USE ONLY


Fee: _____ Receipt: _____

File no.: _____

Date: _____

Ledger: _____

Form Number: 830	Issue Date: 09/2013
Version Number 1	Next Review date: 09/2015



F O R M 8 3 0

CL22.246 - Attachment 1

POL22 110 Private Use of Public Parking.DOC

Advice to Applicant's for Private Use of Public Parking

There is regular demand for the use of public car parking spaces for development construction / maintenance purposes, and / or parking of mobile public health purposes. Requests can apply to on street parking as well as within public car parks.

1. An application fee shall apply to all requests. Payment of the application fee does not guarantee approval of the request.
2. Payment of the application fee is required at the time of lodgement.
3. This application applies only to Council owned and controlled car parking spaces.
4. Council will only permit the use for development /construction purpose or short-term government use e.g - mobile health checks.
5. Requests for periods of four weeks or more require the installation of 'Work Zones' (as defined in Australian Road Rules 2008). Installation of these zone/s require referral to the Shoalhaven Traffic Committee.
6. In addition to the Application Fee the following fees and charges shall apply if the application is approved:
 - a. Parking Usage Fee - as detailed in Council's fees and charges shall apply to each space per week or part thereof, where timed parking restrictions apply.
 - b. Signage Installation/Restoration Fee - as detailed in Council's fees and charges shall apply to each work zone.
7. Sequential applications and/or applications for an extension of the agreed period must be submitted 6 weeks prior to the expiry of the current approval period.
8. It is the applicant's responsibility to report, repair and / or pay for any damage to Council facilities such as pavement damage.
9. Public liability insurance in an amount of \$20 million noting that Shoalhaven City Council is an interested party is to be maintained for the period of private use. Written evidence of a current policy is to be provided prior to the commencement of private use.
10. The applicant shall meet all obligations under the Work Health and Safety Act 2011, and relevant Workcover requirements including appropriate traffic controls

CL22.247 Progress Update - Infrastructure Recovery Works - Natural Disaster March 2022

HPERM Ref: D22/225969

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To provide Council with an update on the progress of infrastructure recovery works as a result of the severe weather event across March and April 2022 in the Shoalhaven LGA.

Recommendation

That Council receive this update on the progress of infrastructure recovery works which are required as a result of the March 2022 Natural Disaster Event.

Options

Nil

Background

Since the 2019/20 Bush Fire crisis, the worst in NSW history, there has been eight significant natural disaster events that have impacted the Shoalhaven. The latest of these being the - **March 2022 East Coast Low which caused extensive damage by way of major landslips, pavement failures, bridge and causeway damage. The following summarise the extent of the of this damage to date:**

- A total of 962 records of damages received to date which is made up of:
 - 350 Emergency Works projects
 - 501 Immediate Reconstruction Works projects
 - 111 Essential Public Reconstruction Works projects
- 14 sites having specific funding approved to the total value of \$875K
- 14 Geotechnical reports have been completed.

The definition of each work category above is as follows.

Emergency Works

Urgent activities necessary following an eligible disaster to temporarily restore an essential public asset to enable it to operate at an acceptable level of efficiency to support the immediate recovery of the community.

Intermediate Reconstruction Works

Immediate reconstruction activities following an eligible disaster to fully reconstruct a damaged essential public asset, and where no Essential Public Asset Reconstruction Works are required.

CL22.247

Essential Public Asset Reconstruction Works

Reconstruction works of an essential public asset directly damaged by an eligible disaster for which an estimated reconstruction cost has been developed.

The timeframe of each work category is as follows:

Restoration of Essential Public Assets	Emergency Works	Immediate Reconstruction Works	Essential Public Asset Reconstruction Works
Damage notification	24 hours (notify)	asap (seek agreement)	6 months (approval)
Works completion time limit	3 months (21 days for 'opt-out' councils)	3 months	2 years (after the end of FY)

A Natural Disaster Project Team has been formed and is in the Nowra CBD in a vacant Council property in Schofields Lane. A summary of the team formation is as follows.

- Senior Project Manager – recruited
- Business Support Officer – recruited
- Administrative Assistant – recruited
- 2 x Project Managers – interviews completed and offers made – staff will be in place by end of June 2022
- 2 x Surveillance Officers – interviews completed & background checks in progress – staff will be in place by end of June 2022

To date some projects have been completed. A more comprehensive list will accompany future progress reports however it's worth noting that examples of our completed works to date include -

- Monkey Mountain – landslip repairs
- Upper Kangaroo River Road – Stage 1 interim repair to landslip
- Burrier Road – landslip repairs
- Kangaroo Valley Road – land slip clean-ups / repairs to road pavement
- Foremans Rd – pavement works at landslip to provide access for residents
- Mt Scanzi Road – clean-up of landslips
- Bunkers Hill Road – landslip repairs
- Martin Vale Lane – culvert replacement to provide access to residents
- Budgong Road – make safe works including resheeting of road
- Pestells Lane – road pavement works
- Devitts Lane - road pavement repairs

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- Green Valley Road – make safe works
- Duffy's Lane – road pavement repairs
- Corks Lane - heavy patching works
- Old Coach Rd – landslip repairs
- Lake Conjola – road pavement works
- Interim design solution for Wattamolla Road Major Landslip
- Tilbrook Av, St Georges Basin – Pavement Repair
- Greenwell Point Road– Pavement Repair
- Cabbage Tree Lane – Pavement Repair
- Callala Beach Road – Pavement Repair
- Evelyn Rd– Pavement Repair
- The Wool Rd– Pavement Repair
- Dowling St– Pavement Repair
- Roper St– Pavement Repair
- Murray St– Pavement Repair
- Woodstock Rd – Pavement Repair
- Lake Conjola Rd– Pavement Repair
- Sussex Inlet Rd – Pavement Repair
- Cammaray Dr Inlet Rd – Pavement Repair
- Albion St – Pavement Repair
- Woodhill Mountain Rd -Pavement Repair

The total damage bill is likely to exceed \$50 million. Expenditure and funding to date can be summarised as follows.

Expenditure

District	Emergency Works	Immediate Restoration	Repair of Public Assets
Basin	\$327,124	\$8,111	Landslips \$20,643
Central	\$394,803	\$19,651	
North	\$1,198,915	\$660	
South	\$201,978	\$18,993	
TOTALS	\$2,122,820	\$47,415	\$20,643

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Funding

Funding Value	Month Paid	Distribution
\$1,000,000	Mar-22	\$100,000 – Kangaroo Valley Business Recovery Plan \$900,000 – Cover funding deficits for emergency and immediate reconstruction works
\$5,000,000	Jun-22	Pre-funding of first \$5M of upcoming claims - to be lodged monthly
\$6,000,000		

With so many people and places affected a prioritisation tool has been developed to help rationally prioritise efforts. The prioritisation is determined via the heat map scoring process whereby;

“Severity + Impact = Priority Score”

Severity	
	(5) Critical – road closed or single lane traffic / risk of people not having access to emergency services (e.g. hospitals)
	(4) High – road closes after short rain events / damages add risk to damage to vehicles or people / risk of people having to make long detours to have access to emergency services
	(3) Moderate – damages require slowing of traffic / damages add risk of traffic accidents due to slowing or swerving around damages
	(2) Low – damages unlikely cause harm or injury / damages could deteriorate over time if not addressed
	(1) Super Low – damages unlikely cause harm or injury / damages unlikely to deteriorate
Impact	
	(5) Critical – one or more entire communities impacted
	(4) High – one or more suburbs impacted
	(3) Moderate – one or more roads impacted
	(2) Low – one or more residents impacted
	(1) Super Low – inconvenience only

This process is still a work in progress, and it is planned to publish this “Heat Map” as soon as possible. So far 57 sites have scored 5 or above and are considered the highest priority for action. In most cases this means “interim works” will be undertaken to reduce the severity whilst permanent works are determined and planned.

Note: As the Severity score comes down due to interim works this tool may require a redefinition of Severity in six months’ time.

Three Week Forward Works Program

- Works to commence on Wattamolla Road Major Landslide (interim solution to provide a 10 tonne load limited one lane access)
- Works to commence on Woodhill Mountain Road Pavement repairs.
- Works to commence on The Wool Road Pavement repair.

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- Works to commence on The Albion Street Pavement repair.
- Works to commence on The Cammeray Drive Pavement repair.
- Investigation and design work to progress on numerous damage items, (more details to follow in future updates)

Three Month Forward Works Program

After three months it is anticipated that

1. All sites with a Severity Score of 5 (as per above) will have been actioned to allow a revised rating reduced to at least a 4.
2. All high priority damage items (57 items) with investigation finalised and design work complete or nearing completion.

Community Engagement

Extensive community engagement has been undertaken and is ongoing as part of keeping the community up to date with emergency work activities over the last eight weeks. This has included attendance and two village gatherings in Kangaroo Valley (29 March & 26 April 2022) and one at the Berry Forum (12 May 2022). Specific project update pages have been established on Council's website which provides information on current work. Interested persons/parties can subscribe to the pages to receive updates.

Attending to all emails and retuning all phone calls with detailed updates is proving to be a challenge. A project page is being developed for each project with a "subscribe" button available for members of the public to be kept up to date. Despite initial teething problems, the uncertainty posed by the scale of the damage and ongoing wet weather, these Project Pages appear to be being well received. Currently new templates are being developed based on feedback so far and soon many more project pages will appear on our webpage in the coming days.

Financial Implications

A Notice of Natural Disaster Declaration was made on 6 March 2022 by Resilience New South Wales for the Shoalhaven LGA. As a result, Council is eligible to receive funding under the Australian Government Disaster Recovery Funding Arrangements (2018) to cover the costs associated with restoration of roads to the pre-condition before the event.

CL22.247

CL22.248 Tenders - Management & Operation - Holiday Haven Burrill Lake

HPERM Ref: D22/195708

Department: Commercial Services

Approver: Paul Keech, Director - City Services

Reason for Report

To inform Council of the tender process for Management and Operation of Holiday Haven Burrill Lake.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. It is not in the public interest to disclose this information as it may reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests. This information will be considered under a separate confidential report.

Recommendation

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

Options

1. Accept the recommendation

Implications: Consider a separated confidential report on the matter

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan

Details

Council called tenders for Management and Operation of Holiday Haven Burrill Lake on 7 April 2022 which closed at 10:00 am on 3 May 2022. One tenders were received at the time of closing. Tenders were received from the following:

Tenderer	Location
BLJ Burrill Lake Pty Ltd	Burrill Lake, NSW

Details relating the evaluation of the tenders are contained in the confidential report.

Community Engagement:

The tender process for the appointment of a management contractor to Shoalhaven City Council's Holiday Haven Park at Burrill Lake has been followed within the requirements of the provisions of the Local Government Act.

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Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications:

The financial provisions of the current and new contract are the same.

Financial aspects of the management contracts for Council's commercially operated Holiday Haven Parks are a balance between sufficient funds for the contract to provide a prudent level of staffing and equipment to effectively operate these complex properties, and the need for Council to obtain the best value for money. Holiday Haven considers the cost of operating these properties carefully in order to maintain an adequate business benefit to Council and a return to the Contractor that ensures the properties are operated and maintained for Council to the required industry standards.

Risk Implications

Details relating to the Risk Implications are contained in the confidential report.

CL22.248

CL22.249 Tenders - Rehabilitation of Worrigee Road (CH860 – CH1620), Worrigee

HPERM Ref: D22/203906

Department: Works & Services

Approver: Paul Keech, Director - City Services

Reason for Report

To inform Council of the tender process for Rehabilitation of Worrigee Road (CH 860 - CH1620), Worrigee.

In accordance with Section 10A(2)(d)(i) of the Local Government Act 1993, some information should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it. It is not in the public interest to disclose this information as it may reveal commercial-in-confidence provisions of a contract, diminish the competitive commercial value of any information to any person and/or prejudice any person's legitimate business, commercial, professional or financial interests. This information will be considered under a separate confidential report.

Recommendation

That Council consider a separate confidential report in accordance with Section 10A(2)(d)(i) of the Local Government Act 1993.

Options

1. Accept the recommendation

Implications: Consider a separate confidential report on the matter.

2. Council make a different resolution

Implications: This is not recommended as an extensive evaluation process has been undertaken by the tender evaluation team in accordance with the tender evaluation plan.

Details

Project Description

Council intends to improve the drainage along Worrigee Road, increase clearance to vegetation along this length of road and rehabilitate the road pavement and driving surface between chainage 860 and 1620 (Isa Road to Regelia Parade) of Worrigee Road.

Tendering

Council called tenders for Rehabilitation of Worrigee Road (CH 860 - CH1620), Worrigee on 1 March 2022 which closed at 10:00 am on 29 March 2022. Three (3) tenders were received at the time of closing. Tenders were received from the following:

Tenderer	Location
Cleary Bros (Bombo) Pty Ltd	Port Kembla, NSW 2505

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Tenderer	Location
Denrith Pty Ltd	Goulburn, NSW 2580
Fulton Hogan Industries Pty Ltd	Kembla Grange, NSW 2526

Details relating the evaluation of the tenders are contained in the confidential report.

Policy Implications

Nil. The tender process has followed the requirements under the provisions of the Local Government Act 1993.

Financial Implications:

Sufficient funds have been allocated in the Rehabilitation of Worrigee Road (CH 860 - CH1620), Worrigee budget for 2022/2023 financial year. Funding is available to cover the tender amount including other project costs.

Risk Implications

Details relating to the Risk Implications are contained in the confidential report.

CL22.249

CL22.250 Land Acquisition Matters - Cambewarra Locality

HPERM Ref: D22/189857

Department: Technical Services

Approver: Paul Keech, Director - City Services

Reason for Report

This report is to provide Council with an opportunity to consider a confidential report for the acquisition of land in the Cambewarra locality.

Further information is provided in a separate confidential report in accordance with Section 10(2)(c) of the Local Government Act 1993; if the information was disclosed, this would confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business with.

Recommendation

That Council, in accordance with Section 10(2)(c) of the Local Government Act 1993, considers a separate confidential report in relation to property acquisition matters associated with Cambewarra locality.

Options

1. Adopt the recommendation

Implications: Consider a separate confidential report for the proposed acquisition of land in the Cambewarra locality.

Background

Land is required for road purposes to facilitate the delivery of the Far North Collector Road, including construction, operation & maintenance of the future road.

The Far North Collector Road (FNCR) was identified in the Nowra Bomaderry Structure Plan (NBSP) adopted by the Council in 2007. The FNCR will provide transport connection from Illaroo Rd West Cambewarra to Moss Vale Road Cambewarra at the Bells Lane intersection, as well as provide relief routes required for both North & South Moss Vale Road Urban Release Area's. The southern Urban Release Area is imminent urban development with current subdivision applications under assessment.

The Property Unit commenced negotiations in late 2018 to enable survey design for the road construction and proposed area of acquisition. The last matter resolved was MIN20.204C.

Risk Implications

Failure to acquire the land for the Far North Collector Road will impact on the delivery of the FNCR.

CL22.251 Variations to Development Standards - March Quarter 2022

HPERM Ref: D22/49250

Department: Development Services

Approver: James Ruprai, Director - City Development

Attachments: 1. Variation Report - 1st Quarter - March 2022 [↓](#)
2. Planning Circular - Variations to Development Standards [↓](#)

Reason for Report

This report is submitted to the Ordinary Meeting due to the requirement (Department of Planning and Environment) that the information contained in the report is to be reported to the full elected Council and to the Department on a quarterly basis. All reports to the Department must be submitted through the NSW Planning Portal.

Council is required to consider variations to development standards (contained in an environmental planning instrument such as the Shoalhaven Local Environmental Plan) which exceed 10%, with lesser variations able to be dealt with by staff, under delegation.

Council is also required to publish the variations in addition to reporting the variations to the full Council and the Department of Planning, Industry and Environment.

This is a regular information report.

Recommendation

That Council receive the Variations to Development Standards – March Quarter Report 2022 for information.

Options

1. Receive the report for information.

Implications: Council will be complying with the reporting provisions as detailed in *Circular PS20-002 Variations to development standards*. (Attached.)

2. Resolve an alternative and provide details to staff.

Implications: Depending on what is resolved, the Council would need to ensure compliance observing that the Department undertakes periodic audits.

Background

Procedural and reporting requirements

To ensure transparency and integrity in the planning framework, the Department requires monitoring and reporting measures.

- A written application (by an applicant) must be made to support a variation.
- An online register of all variations to be maintained. (Council's website.)
- A report must be submitted through the Portal.
- A report of all variations from a Council must be provided to a meeting of the Council at least once a quarter. (This report.)

CL22.251

Audit

The Department will continue to carry out random audits to ensure the above monitoring and reporting measures are complied with.

This Council has been the subject of an audit. The then Group Deputy Secretary of the Department of Planning, Industry and Environment concluded that it was satisfied with the Council's processes and reporting regime, concluding in a letter dated 11 July 2019:

The audit involved the review of over 180 development application approvals across 18 councils. Reporting on the Council's obligations outlines in clause 4.6 of the SILEPI would like to congratulate Shoalhaven City Council for meeting the ongoing reporting and administrative obligations under the development standard variation regime..."

Summary of reportable variations

The table below is based on the spreadsheet but is simplified for easier reading. The spreadsheets are viewable on Council's webpage and are published quarterly as soon as possible after the last day of the month.

There were two reportable variations for the March Quarter.

1. Table – Variations March Quarter 2022

DA	Lot	DP	Street Name	Suburb	Post Code	Description	Standard Varied	Extent of Variation	Decision	Date
DA21/1966	2	12606 53	Mt Scanzi Rd	Kangaroo Valley	2577	Dwelling	Height	9.38%	Approval	9/2/22
DA21/1612	1	53142 9	Bolong Rd	Bolong	2540	Industrial (concrete batching plant)	Height	116%	Approval	14/3/22

DA21/1966 was for a dwelling at Mt Scanzi Rd, Kangaroo Valley. The height penetration was for a small portion of an architectural roof feature / embellishment. The height control for the proposal was 8m. The departure - 0.75m. This application was dealt with under delegation.

DA 21/1966 was for a concrete batching plant at Bolong Rd, Bolong. It was reported to Council on 14 March 2022. Council resolved to determine the application by way of approval and also:

Confirm it supports, pursuant to cl 4.6 (Exceptions to development standards) of the SLEP 2014, the applicant's request to vary the height limit of 11m to 23.75m;

The height was associated with the silos, which are required specifically for the industrial use the building, plant and equipment.

Conclusion

- One variation as detailed above, was under delegation (being under 10%) the other reportable to Council as it exceeded the 10% threshold.
- The variations and applications approved during the June quarter have been uploaded to the Department of Planning and Environment Portal site and published on Council's website.
- This report to Council, combined with the report (via the Portal) to the Department and website publication satisfies the requirements for the Department's reporting regime for clause 4.6 matters.

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Council DA reference number	Lot number	DP number	Apartment/ Unit number	Street number	Street name	Suburb/Town	Postcode	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Concurring authority	Date DA determined dd/mm/yyyy	
DA21/1966	2	1260653		30	Mt Scanzi Road	Kangaroo Valley	2577	2: Residential - Single new dwelling	SLEP2014	R5 Large Lot Residential	4.3 Height of Buildings	The slope of the land results in the encroachment. The building has been designed to maximise solar and thermal efficiencies and to be sympathetic to the rural village character.	9.38%	Council under assumed Secretary's concurrence. Determined under staff delegation.	9/02/2022	
DA21/1612	1	531429			Bolong Road	Bolong	2540	11: Industrial	SLEP2015	IN1 General Industry	4.3 Height of Buildings	The height variation is linked with the utility of the concrete batching plant silo proposed. The development is consistent with the height and scape of development within neighbouring properties and will not change the character of the locality.	1.16	Council under assumed Secretary's concurrence. Determined at Council ordinary meeting	14/03/2022	



Planning circular

PLANNING SYSTEM

Varying Development Standards

Circular	PS 20-002
Issued	5 May 2020
Related	Revokes PS 18-003 (February 2018), PS 19-005

Variations to development standards

This circular is to advise consent authorities of arrangements for when the Secretary's concurrence to vary development standards may be assumed (including when council or its Independent Hearing and Assessment Panel are to determine applications when development standards are varied) and clarify requirements around reporting and record keeping where that concurrence has been assumed.

Overview of assumed concurrence

This circular replaces Planning Circular PS 18-003 and issues assumed concurrence, governance and reporting requirements for consent authorities. It also advises that council reports are to come through the Planning Portal, and of the repeal of SEPP 1.

All consent authorities may assume the Secretary's concurrence under:

- clause 4.6 of a local environmental plan that adopts the *Standard Instrument (Local Environmental Plans) Order 2006* or any other provision of an environmental planning instrument to the same effect, or
- State Environmental Planning Policy No 1 – Development Standards* for land included in an old Interim Development Order (IDO) or Planning Scheme Ordinance (PSO).

However, the assumed concurrence is subject to conditions (see below).

The assumed concurrence notice takes effect immediately and applies to pending development applications.

Any existing variation agreed to by the Secretary of Planning, Industry and Environment to a previous notice will continue to have effect under the attached notice.

Assumed concurrence conditions

Lot size standards for dwellings in rural areas

The Secretary's concurrence may not be assumed for a development standard relating to the minimum lot size required for erection of a dwelling on land in one of the following land use zones, if the lot is less than 90% of the required minimum lot size:

- Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone

RU4 Primary Production Small Lots, Zone RU6 Transition

- Zone R5 Large Lot Residential
- Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living
- a land use zone that is equivalent to one of the above land use zones

This condition will only apply to local and regionally significant development.

Numerical and non-numerical development standards

The Secretary's concurrence may not be assumed by a delegate of council if:

- the development contravenes a numerical standard by greater than 10%; or
- the variation is to a non-numerical standard.

This restriction does not apply to decisions made by independent hearing and assessment panels, formally known as local planning panels, who exercise consent authority functions on behalf of councils, but are not legally delegates of the council (see section 231).

The purpose of the restriction on assumed concurrence for variations of numerical and non-numerical standards applying to delegates is to ensure that variations of this nature are considered by the council or its independent hearing and assessment panel and that they are subject to greater public scrutiny than decisions made by council staff under delegation.

In all other circumstances, delegates of a consent authority may assume the Secretary's concurrence in accordance with the attached written notice.

Independent hearing and assessment panels

From 1 March 2018, councils in Sydney and Wollongong were required to have independent hearing and assessment panels that will determine development applications on behalf of councils (see section 231).

The attached notice allows independent hearing and assessment panels to assume the Secretary's concurrence because they are exercising the council's functions as a consent authority.

Independent hearing and assessment panels established by councils before 1 March 2018 also make decisions on behalf of councils. The attached notice applies to existing panels in the same way as it applies to panels established after 1 March 2018.

Regionally significant development

Sydney district and regional planning panels may also assume the Secretary's concurrence where development standards will be contravened.

The restriction on delegates determining applications involving numerical or non-numerical standards does not apply to all regionally significant development. This is because all regionally significant development is determined by a panel and is not delegated to council staff.

However, the restriction on assuming concurrence to vary lot size standards for dwellings in rural areas will continue to apply to regionally significant development. The Secretary's concurrence will need to be obtained for these proposals in the same way as it would for local development.

State significant development and development where a Minister is the consent authority

Consent authorities for State significant development (SSD) may also assume the Secretary's concurrence where development standards will be contravened. This arrangement also applies to other development for which a Minister is the consent authority for the same reasons.

Any matters arising from contravening development standards will be dealt with in Departmental assessment reports.

The restriction on assuming concurrence to vary lot size standards for dwellings in rural areas will not apply to SSD or where a Minister is the consent authority for the same reasons.

Notification of assumed concurrence

Under clause 64 of the *Environmental Planning and Assessment Regulation 2000*, consent authorities are notified that they may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the SILEP (or any other provision of an environmental planning instrument to the same effect).

The notice takes effect on the day that it is published on the Department of Planning, Industry and Environment's website (i.e. the date of issue of this circular) and applies to pending development applications.

Procedural and reporting requirements

In order to ensure transparency and integrity in the planning framework the below Departmental monitoring and reporting measures must be followed when development standards are being varied:

- Proposed variations to development standards cannot be considered without a written application objecting to the development standard and dealing with the matters required to be addressed by the relevant instrument.
- A publicly available online register of all variations to development standards approved by the consent authority or its delegates is to be established and maintained. This register must include the development application number and description, the property address, the standard to be varied and the extent of the variation.
- A report of all variations approved (including under delegation) must be submitted through the NSW Planning Portal at <https://www.planningportal.nsw.gov.au/reporting/online-submission-planning-data> within four weeks of the end of each quarter (i.e. March, June, September and December) in the form provided by the Department.
- A report of all variations approved under delegation from a council must be provided to a meeting of the council meeting at least once each quarter.

Councils are to ensure these procedures and reporting requirements are carried out on behalf of Independent Hearing and Assessment Panels and Sydney district or regional planning panels.

Audit

The Department will continue to carry out random audits to ensure the monitoring and reporting measures are complied with. The Department and the NSW Independent Commission Against Corruption will continue to review and refine the audit strategy.

Should ongoing non-compliance be identified with one or more consent authorities, the Secretary will consider revoking the notice allowing concurrence to be assumed, either generally for a consent authority or for a specific type of development.

Repeal of State Environmental Planning Policy No 1 – Development Standards (SEPP 1)

The repeal of SEPP 1 came into effect from 1 February 2020 as part of the SEPP Review Program to update and simplify the NSW Planning system.

SEPP 1 is repealed in circumstances where a standard instrument LEP applies in a local council

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area. The amendments included the insertion of two clauses into the *SEPP (Concurrences and Consents) 2018*. Clause 6 provides for the continued operation of SEPP 1 where an Interim Development Order (IDO) or a Planning Scheme Ordinance (PSO) is in effect. Clause 7 is a savings provision which continues to apply SEPP 1 for applications that were made prior to the repeal but are yet to be determined.

Further information

A Guide on Varying Development Standards 2011 is available to assist applicants and councils on the procedures for managing SEPP 1 and clause 4.6 applications to vary standards.

Links to the Standard Instrument can be found on the NSW Legislation website at:
www.legislation.nsw.gov.au

For further information please contact the Department of Planning, Industry and Environment's information centre on 1300 305 695.

Department of Planning, Industry and Environment circulars are available at:
planning.nsw.gov.au/circulars

Authorised by:

Marcus Ray
Group Deputy Secretary,
Planning and Assessment
Department of Planning, Industry and Environment

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

Assumed concurrence notice

I, Carolyn McNally, Secretary of the Department of Planning and Environment, give the following notice to all consent authorities under clause 64 of the *Environmental Planning and Assessment Regulation 2000*.

Notice

All consent authorities may assume my concurrence, subject to the conditions set out in the table below, where it is required under:

- clause 4.6 of a local environmental plan that adopts the *Standard Instrument (Local Environmental Plans) Order 2006* or any other provision of an environmental planning instrument to the same effect, or
- *State Environmental Planning Policy No 1 – Development Standards*.

No.	Conditions
1	<p>Concurrence may not be assumed for a development that contravenes a development standard relating to the minimum lot size required for the erection of a dwelling on land in one of the following land use zones, if the variation is greater than 10% of the required minimum lot size:</p> <ul style="list-style-type: none"> – Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition – Zone R5 Large Lot Residential – Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living – a land use zone that is equivalent to one of the above land use zones <p>This condition does not apply to State significant development or development for which a Minister is the consent authority</p>
2	<p>Concurrence may not be assumed for the following development, if the function of determining the development application is exercised by a delegate of the consent authority:</p> <ul style="list-style-type: none"> – development that contravenes a numerical development standard by more than 10% – development that contravenes a non-numerical development standard <p>Note. Local planning panels constituted under the <i>Environmental Planning and Assessment Act 1979</i> exercise consent authority functions on behalf a council and are not delegates of the council</p> <p>This condition does not apply to State significant development, regionally significant development or development for which a Minister is the consent authority</p>

This notice takes effect on the day that it is published on the Department of Planning's website and applies to development applications made (but not determined) before it takes effect.

The previous notice to assume my concurrence contained in planning system circular PS 17–006 *Variations to development standards*, issued 15 December 2017 is revoked by this notice. However, any variation to a previous notice continues to have effect as if it were a variation to this notice.

Dated: 21 February 2018



Carolyn McNally
Secretary, Department of Planning and Environment

CL22.252 DA16/1465 – 173 Kinghorne St & 2 & 4 Albatross Rd - Nowra - Lot 1, 29 & 30 DP 25114**DA. No:** DA16/1465/4**HPERM Ref:** D22/183837**Department:** Development Services**Approver:** James Ruprai, Director - City Development

Attachments:

1. Section 4.15 Planning Report (under separate cover) ➡
2. Notice of Determination - Refusal ⬇
3. Architectural Plans (as amended) (under separate cover) ➡
4. CL21.230 - Report and Draft Determination to 26 October 2021 Ordinary Meeting (under separate cover) ➡

Description of Development: Demolition of existing structures and construction of a mixed-use development consisting of 55 apartments including 16 x 3-bedroom, 31 x 2 bedroom and 8 x 1-bedroom apartments, a basement car parking area and 3 commercial tenancies at ground floor with frontage to both Kinghorne Street and Albatross Road

Owner: Bill Zervos and Jasmine Anne Simpson & John Irwin Gould**Applicant:** Lee Carmichael Town Planning (now trading as PDC Lawyers and Town Planners)**Notification Dates:** 14 June – 14 July 2017**No. of Submissions:** Six (6) submissions in objection and Nil (0) in support.**Purpose / Reason for consideration by Council**

The application has been called in by Council (details are provided below) and has been reported on several previous occasions. This is an outstanding application that requires resolution having been with Council for over six (6) years. This site represents a key opportunity for gateway development leading into the Nowra City Centre and is characterised by possessing the only B4 zoning in the immediate vicinity.

On 1 October 2019, it was resolved by the Development and Environment Committee that Development Application (DA) 'DA16/1465 – Residential Units and Commercial Space – 173 Kinghorne Street, Nowra be called in to Council for determination due to significant public interest.' (DE19.107)

On 6 October 2020, the Development & Environment Committee resolved (MIN20.728):

"That consideration of Development Application DA16/1465 – Mixed Use development consisting of 55 residential units and commercial space on the land known as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra (Lot 1, 29 and 30 DP 25114) be deferred to the January 2021 Development and Environment Committee Meeting to allow Council to undertake further traffic investigations in consultation with the developer."

On 11 May 2021, it was resolved by the Development and Environment Committee: *"That the Item be deferred to the June Development and Environment Committee meeting for further consideration."* (MIN21.256).

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On 1 June 2021, it was resolved by the Development and Environment Committee; *“That Council receive this report as an update on the progress of the assessment of DA16/1465 and in satisfaction of the 11 May 2021 resolution of the Development & Environment Committee (DE21.50).”* (MIN21.357).

On 26 October 2021, it was resolved by the Ordinary Meeting *‘That in relation to Development Application DA16/1465 – mixed use development consisting of 55 residential units and commercial space on the land known as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra (Lot 1, 29 and 30 DP 25114) the matter be deferred to early 2022.’* (MIN21.775).

This report is prepared to respond to the above resolutions.

Recommendation

That Development Application DA16/1465 – mixed use development consisting of 55 residential units and commercial space on the land known as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra (Lot 1, 29 and 30 DP 25114) be determined by way of refusal for the reasons outlined in this report and detailed in Attachment 2.

Options

1. Refuse the Development Application (DA).

Implications: The proposal would not proceed in its current form. The applicant can, however, apply for a section 8.2 review of Council’s decision and/or could lodge an appeal with the NSW Land and Environment Court against Council’s decision.

2. Approve the DA.

Implications: Council would have to provide reasons to support the development, having regard to section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) considerations. Should Council resolve to approve the DA a suite of conditions would be required to be drafted for reconsideration by Council. Under some circumstances, third parties (i.e., objectors) can seek a judicial review of Council’s decision in the NSW Land and Environment Court.

3. Alternative recommendation.

Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

Location Map



Figure 1 - Extract of the subject site in the local context.

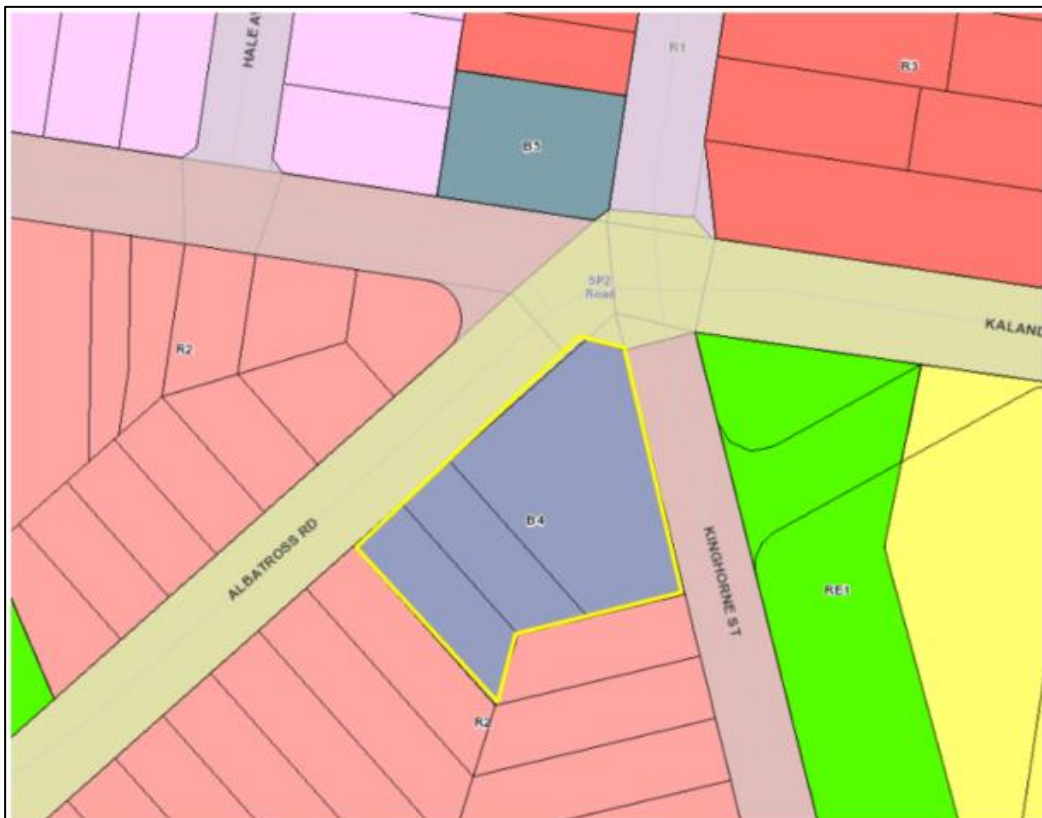


Figure 2 - Extract of the Shoalhaven Local Environmental Plan 2014 Land Use Zoning Map with the subject site with a yellow border

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Background

Subject Land

The subject site comprises 3 lots (subject site) located on the south-western corner of the intersection of Kinghorne Street, Albatross Road and Kalandar Street. The subject site is described and legally identified as follows:

- Lot 29 DP 25114 – 4 Albatross Road, Nowra
- Lot 30 DP 25114 – 2 Albatross Road, Nowra
- Lot 1 DP 25114 – 173 Kinghorne Street, Nowra

The site is an irregular shaped lot with a frontage of 74m to Albatross Road and 60m to Kinghorne Street with a 9.5m corner splay. The site falls gradually to the south-western corner of the site at Albatross Road.

The combined land area of the lots is approximately 3,497m².

Proposed Development

The DA is seeking development consent for the demolition of existing structures and construction of a mixed-use development consisting of 55 apartments, including:

- 8 x 1 bedroom apartments
- 31 x 2 bedroom apartments
- 16 x 3 bedroom apartments
- 3 commercial tenancies (total commercial floor area 259m² (267m² including bathroom i.e., GFA) at ground floor with frontage to both Kinghorne Street and Albatross Road.
- A basement car parking area accessed via Albatross Road with 93 car parking spaces.
- Construction of a left turn slip lane (removal of on-street parking) for access into the basement car park off Albatross Road.
- Construction of a central median and signage on Albatross Road to control the movement of traffic in and out of the proposed development (left in and left out movements only).

A site plan, ground floor, elevations, landscape plan are provided attached at **Attachment 3**, with photomontages shown at **Figures 3 - 5**.



Figure 3 - Photomontage view from the south-eastern (Kinghorne Street).



Figure 4 - Photomontage view from the north-eastern corner of Kinghorne and Kalandar Street.

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Figure 5 -Photomontage of the south-western elevation of the development as viewed from Albatross Road.

Post-Lodgement

Key dates following the lodgement are as follows:

- **8 April 2016, the DA was lodged with Council.**
- **9 August 2016,** Council requested additional information from the applicant in relation to the design and access arrangements from Albatross Road.
- **16 December 2016,** revised plans and additional information was submitted by the applicant in response to Council's letter dated 9 August 2016. The amended plans included modifications to the southern portions of each wing of the building and deletion of two apartments (reducing the unit yield from 57 to 55 apartments). The reduction in units on the southern portion of the development was proposed to achieve a more appropriate transition to the adjoining low-density development.
- **27 February 2017,** Council requested additional information from the applicant, with continued concerns raised in relation to design elements and major concerns raised in relation to the proposed access/egress onto Albatross Road.
- **7 March 2017,** Council met with the applicant to discuss the Planning Proposal over the site (described below) and continued concerns with the design and location of access/egress onto Albatross Road.
- **22 March 2017,** a further additional information letter was sent to the applicant to detail the outcomes of the 7 March 2017 meeting and to express continued concerns regarding the proposed access/egress onto Albatross Road.
- **10 July 2018,** Council met again with the applicant to discuss design and traffic issues.
- **12 September 2018,** the applicant lodged concept plans for access/egress to the development from Kinghorne Street for Council's consideration (refer to **Figure 18**).

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- **12 October 2018**, Council provided feedback to the applicant on the concept plan, noting that the concept plan addressed the main concern that had been raised by Council being the relocation of the access from Albatross Road to Kinghorne Street frontage.
- **18 April 2019**, the applicant confirmed that they would not be pursuing any change to the design of the development which would relocate the access from Albatross Road to Kinghorne Street frontage.
- **12 August 2019**, the applicant submitted a further amended *Traffic Report* prepared by Jones Nicholson (D19/280251) to justify the retention of access on the Albatross Road frontage and to address concerns raised in relation to the designs apparent inconsistency with *State Environmental Planning Policy (Infrastructure) 2007*.
- **1 October 2019**, the **Development and Environment Committee** that **Development Application (DA) 'DA16/1465 – Residential Units and Commercial Space – 173 Kinghorne Street, Nowra be called in to Council for determination due to significant public interest.'** (DE19.107).
- **26 November 2019**, the applicant submitted amended plans, acoustic report, and clause 4.6 variation statement.
- **6 October 2020**, the application was reported to the **Development & Environment Committee** recommending the refusal of the application. The Committee resolved (MIN20.728):

“That consideration of Development Application DA16/1465 – Mixed Use development consisting of 55 residential units and commercial space on the land known as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra (Lot 1, 29 and 30 DP 25114) be deferred to the January 2021 Development and Environment Committee Meeting to allow Council to undertake further traffic investigations in consultation with the developer.”

Council took the following actions in relation to the above matter, following the 6 October 2020 Council resolution:

- **18 November 2020**, relevant Council staff met to discuss critical aspects of the Development Application in particular the *Traffic Management Report* prepared by Jones Nicholson Consulting Engineers dated 27 February 2021 (Reference: CRPT-16020003.01B). The outcomes of the meeting were provided to the applicant on 26 November 2021 (D20/526133).
- **21 December 2020**, Council provided additional information to the applicant in the form of: Outputs from Council's traffic modelling and Council's requirements for a future 4 lane cross section of Albatross Road (D20/563561). Council also offered as part of the forwarding of this additional information the opportunity to meet further to ensure that all matters have been addressed relating to traffic and planning issues.
- **15 January 2021**, Council notified the applicant via email (D21/16222) that the information requested in Council's 21 December 2020 was required to be submitted to Council in 7 days.
- **4 February 2021**, Council emailed the applicant (D21/43579) offering to meet to discuss the additional information.
- **10 February 2021**, Council notified the applicant via email (D21/52704) that the information requested in Council's 21 December 2020 was required to be submitted to Council in 7 days as the applicant had not responded to Council in relation to the offer of a meeting and the information had not been submitted.
- **23 February 2021**, the applicant's traffic consultant (Stephen Falkner) emailed Council, to request the following:

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- traffic data on the existing road network from their records; and
 - projected traffic data for 10-year projections (2031).
- **12 March 2021**, Council emailed the applicant's traffic consultant (Stephen Falkner) (D21/99332) with the following:
 - Council's most recent tube traffic count for the area; and
 - projected traffic data for 10-year projections (2031).
- **24 March 2021**, Council emailed the applicant (D21/117366) to inform them that the application would be required to be reported to Council in the absence of a formal response to Council's email dated 21 December 2020.
- **31 March 2021**, the applicant was emailed (D21/127622) to inform them that the additional information was required to be submitted to Council within 7 days.
- **11 May 2021, the application was reported to the Development and Environment Committee recommending the refusal of the application. The Committee resolved:**

"That the Item be deferred to the June Development and Environment Committee meeting for further consideration." (MIN21.256).

Council took the following actions in relation to the above matter, following the 11 May 2021 Council resolution:

- **18 May 2021**, the applicant was emailed (D21/203761) to again request the additional information.
- **27 May 2021**, the applicant submitted a revised SIDRA analysis (D21/227623) for the proposed development.
- **1 June 2021, the application was reported to the Development and Environment Committee where it was resolved:**

"That Council receives this report as an update on the progress of the assessment of DA16/1465 and in satisfaction of the 11 May 2021 resolution of the Development & Environment Committee (DE21.50)." (MIN21.357).

Council took the following actions following 1 June 2021 Council resolution:

- **27 May 2021**, the applicant's revised SIDRA analysis (D21/227623) was referred Council's Development Engineers and City Services for further consideration.
- **7 October 2021**, Council staff met with the applicant and their consultant to discuss the outstanding access and traffic matters. The applicant outlined the reasoning for the proposed access and traffic assessment associated with the development as follows:
 - The applicant claims that their Albatross Road treatment is adaptable for future integration into a growing network over the next 10 years. Their position is formed in the view that the future beyond this time frame is so uncertain that it is not reasonable to limit their proposal (future)
 - The Albatross Road access is a compliant treatment whereas the Kinghorne street treatment is not compliant with the relevant Australian Standards. (Access)
 - That potential development to the west of their proposal would need to access from Albatross Road (Driveway)

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- **26 October 2021**, the application was reported to the Ordinary Meeting where it was resolved that:

“That in relation to Development Application DA16/1465 – mixed use development consisting of 55 residential units and commercial space on the land known as 173 Kinghorne Street and 2 & 4 Albatross Road, Nowra (Lot 1, 29 and 30 DP 25114) the matter be deferred to early 2022.” (MIN21.775).

A copy of the Council report (CL21.230) can be accessed at **Attachment 4**.

Council has taken the following actions following 26 October 2021 Council resolution:

- **23 November 2021**, a meeting was held with the applicant and Council City Development staff where the applicant advised that their position on traffic matters remained unchanged and it was recognised that the meeting would be reported again in the new year.
- **16 March 2022**, Council staff (City Development and City Services) met with the applicant to discuss the development application and specifically the traffic matters and classification of Albatross Road. The applicant outlined that their position on the outstanding traffic matters have still not changed since the meeting and subsequent Council report in October 2021.

At this meeting it was raised by Council staff that an amended design relocating the access to the development to be from Kinghorne Street would be accepted, despite the significant amount of time that has lapsed since lodgement, in an attempt to resolve the application, and a commitment of a further meeting was made. **7 April 2022**, a further meeting was held with the applicant and Council City Development staff where the applicant advised that due to the subsequent impacts on development yield and cost of an architectural redesign, that an amended design would not be submitted to Council. Staff advised that the application would be accordingly reported to Council in accordance with the October resolution.

Issues

The matters as assessed and outlined in the 26 October 2021 report to the Ordinary meeting (CL21.230) and attached Section 4.15 report have not changed and the reasons for the recommendation of the refusal of the DA remain as applicable and current as they were in October 2021 (refer **Attachment 4**). Broadly summarising these issues relate to:

i. Traffic, vehicular access and impacts on the local road network

a) Proposed vehicular access and road upgrades under the DA

The proposed development has frontages to both Albatross Road (MR92), which is a classified regional road, and Kinghorne Street, which is a local road. The proposed mixed-use development has its only vehicular access from Albatross Road which requires road works and upgrades to this road frontage. .

Throughout the assessment of the DA, access and traffic associated with the proposed access arrangements have been a critical issue. Council staff have met with the applicant and their consultant a number of times to discuss the outstanding access and traffic matters. Council's key concerns relate to the following matters.

b) Suitability of access via Albatross Road vs. Kinghorne Street and compliance with Austroads Guide to Road Design and Council's Development Control Plan (DCP).

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The proposed design standards and implications are a point of contention between Council's engineers and the applicant. Further for a compliant design, the development as proposed will require substantial resumption of land on the opposite side of Albatross Road.

- c) State Environmental Planning Policy (Infrastructure) 2007 (now known as the SEPP (Transport and Infrastructure) 2021)

The subject site has frontage to Albatross Road (MR92), being a classified regional road. Accordingly, section 2.118 of SEPP (Transport and Infrastructure) 2021 (formerly clause 101 of SEPP (Infrastructure) 2007) applies and reads as follows:

2.118 Development with frontage to classified road

- (1) *The objectives of this section are—*
 - (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority **must not grant consent** to development on land that has a frontage to a classified road unless it is satisfied that—*
 - (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, **and***
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, **and***
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*
(emphasis added)

Under subsection 2.118(2) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that **all** the subsequent considerations have been met by the proposal.

The 3 preconditions in subsection 2.118(2) are collective. Therefore, any one of the pre-conditions in subsection 2.118(2) about which Council is not satisfied could prevent the issue of consent. As outlined in the assessment at **Attachment 1**, Council is not satisfied that any of the preconditions of subsection 2.118(2) can be met and accordingly Council cannot approve the DA.

ii. Car Parking

The development is required to provide a total of 83.23 car spaces which, with 93 proposed, is compliant with the applicable parking rates (refer 26 October 2021 Council report at **Attachment 4** for full details). Nonetheless, it is noted that the proposal to provide access to the basement car park via an intercom to provide security to the basement car park area is unlikely to provide suitable public access to car parking for those members of the public wishing to visit the commercial uses and therefore there is

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likely to be a reliance on on-street car parking either to the south of the site or along Kinghorne Street.

Furthermore, the location of the security gates and intercom to provide access to the basement car park is likely to result in unsafe manoeuvring of vehicles should they fail to gain access to the car park or result in queuing on Albatross Road should there be technical issues with the security gate (refer to **Figure 6**).

The development is located in a regional area. Visitors to the residential flat building and customers of the commercial component of the development are heavily reliant on private motor vehicles for transport as opposed to good, accessible, and frequent public transport. The proposed design and arrangement of the basement parking is not considered suitable for a development of this scale and will result in unacceptable impacts on Albatross Road.

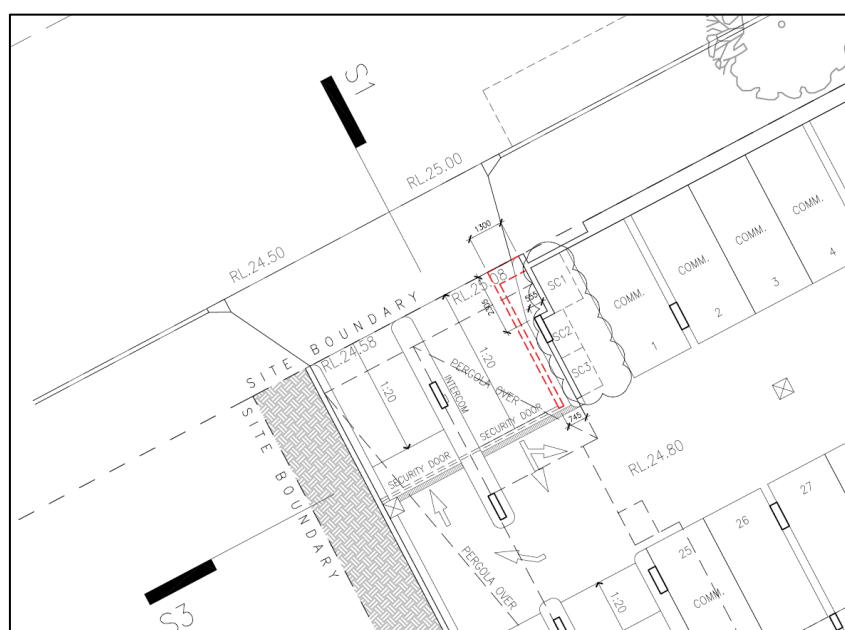


Figure 6 – Extract of the proposed basement plan indicating the location security door and intercom to gain access to the basement car park.

iii. Exceedance of the LEP maximum height control - Clause 4.3 Height of Buildings

Clause 4.3 of SLEP 2014 sets an 8.5m (I2) height limit for part of the site and a 14m (N2) height limit for rest of the site (refer **Figure 7**). The 8.5m height limit applies to a 9m portion of the south eastern portion of the site extending across all lots subject of the development application where the lot adjoins the lower density R1 General Residential land to the south.

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Figure 7 – Height controls applying to the site under the Shoalhaven Local Environmental Plan 2014

Parts of the proposed building exceed the 8.5m (I2) and 14m (N2) height are limited to a portion of the development.

The development proposed exceeds the maximum building height as follows:

- 14m height limit by 480mm or 3.4%;
- 8.5m height limit 1.465m or 17.2%; and
- The percentage exceedance of the maximum building height ranges from 1.4% to 17.2% with the average height limit exceedance being 4.83%.

The submitted height plane diagrams prepared by Kannfinch Architects illustrate that the height limit breach and indicate the percentage breach at each point (Refer to **Figure 8 and 9**).

In April 2016, a Planning Proposal (PP) was lodged concurrently with this DA to rezone the subject site from B5 Business Development to B4 Mixed Use zone and increase the maximum height of the building limit from 11m to 15m (refer **Attachment 1** for full details). The planning proposal was approved and commenced on 6 October 2017 (Amendment No. 16 to SLEP 2014); however, the height limit was increased only to 14m for the majority of the site.

An 8.5m maximum building height associated with a 9m wide portion, as measured from the southern boundaries of Lot 1 and Lot 30 DP 25114, and south-eastern and south-western boundaries of Lot 29 DP 25114 was applied to the subject site.

Despite the PP coming into effect during the assessment of the subject DA, the design of the development was not amended to comply with the approved heights under the site specific PP.

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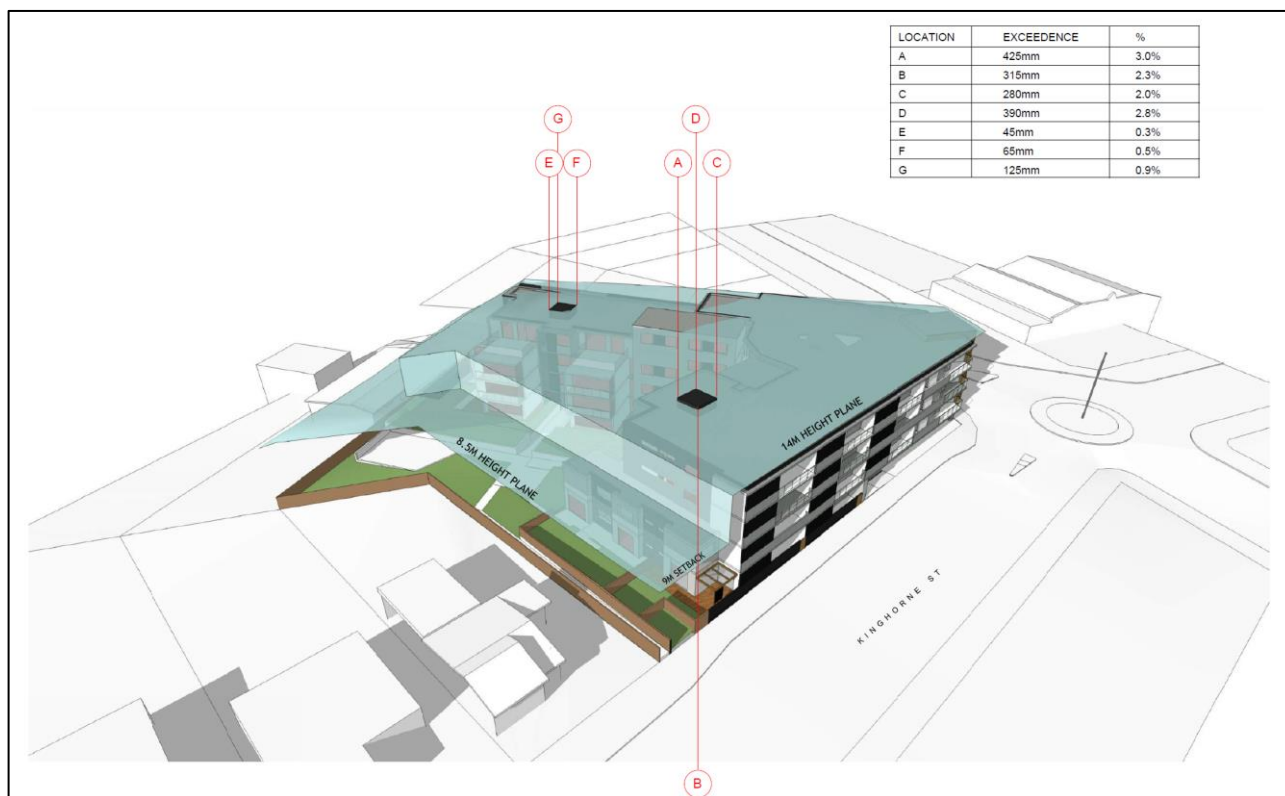


Figure 8 - Height plane instructions relating to the 14.0m (N2) maximum building height - south-eastern view from Kinghorne Street.

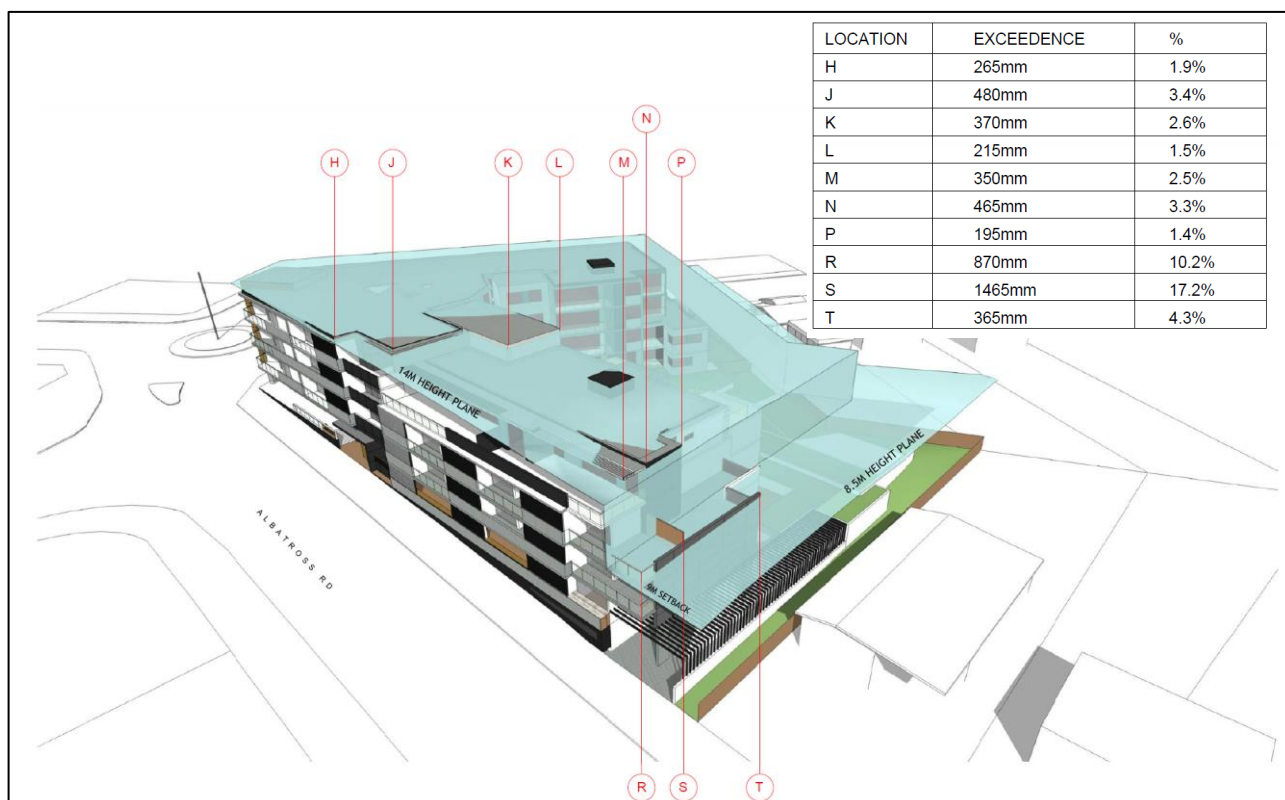


Figure 9 - Height Plane instructions relating to the 14.0m (N2) and 8.5m (I2) maximum building height - southwestern view from Albatross Street.

Development consent may, subject to clause 4.6, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. The application seeks a variation to clause 4.3 Height of Building (i.e., the heights approved under the site specific PP) in accordance with Clause 4.6 of SLEP 2014.

For the reasons detailed in the attached s4.15 Assessment Report (**Attachment 1**), it is not considered that the clause 4.6 variation request has satisfied:

1. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)); and
2. That there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both matters.

In particular a key reason for the variable height control under the PP and transition from the low-density zone to the south and the higher density proposed on the subject site, was the mitigation of impacts to the character of the adjoining low density area, loss of privacy and loss of solar access to the existing neighbouring low density development. Cumulatively, the reduced side setback of the building of 6m setback (opposed to the required 9m setback) and exceedance of the height control in this location exacerbates the overshadowing of the adjoining residences (No. 6 Albatross Road and No. 175 Kinghorne Street) for the portion of the building along the Albatross road frontage.

The s4.15 Assessment Report provides a full assessment of the clause 4.6 variation against the relevant planning 'tests', and concludes that the applicant's request to vary the development standard as it relates to the maximum building height should not be supported for the following reasons:

- The variation request does not demonstrate that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this development.
- The variation request does not demonstrate there are sufficient environmental planning grounds to justify the contravention, which results in a better planning outcome than a strictly compliant development in the circumstances of this particular case.
- Does not demonstrate the development meets the objectives of the development standard.
- The proposed development is for the preceding reasons, not considered to be in the public interest; and
- The applicant has failed to demonstrate that there will be better planning outcomes achieved through a variation to the height standard as it relates to the 8.5m height of building standard associated with a 9m setback to the southern boundary, as opposed to strict compliance with the development standard or amending the application to reduce the extent of the variation.

iv. Non-compliance with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (SEPP 65) and Apartment Design Guide (ADG)

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development (SEPP 65) applies to the proposed development which consists of a new building, of at least 3 storeys and containing at least 4 or more dwellings.

In accordance with Clause 28(2) of the SEPP 65, *In determining a development application for consent to carry out development to which this Policy applies, a consent*

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authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):

- (a) the advice (if any) obtained from the design review panel, and*
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and*
- (c) the Apartment Design Guide.*

A SEPP 65 Design Statement has been prepared by a Registered Architect (D20/6044) addressing the requirements of SEPP 65 and was submitted with the application in accordance with Clauses 50(1A) & 50(1AB) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). The SEPP 65 Design Statement has address Schedule 1 of SEPP 65.

The development has been assessed against the ADG and a full assessment is provided within the s.4.15 Assessment Report (**Appendix 1** of this Report).

It is considered that the design quality of the development, when evaluated against the nine design quality principles does not satisfactorily exhibit exceptional design excellence when assessed against the following principles:

- Principle 2: Built form and scale
- Principle 3: Density
- Principle 4: Sustainability
- Principle 5: Landscape
- Principle 6: Amenity

Additionally, Clause 30(2) of SEPP 65 requires residential apartment development to be designed in accordance with the ADG. Parts 3 and 4 of the ADG provide objectives, design criteria and design guidance for the siting, design, and amenity of apartment developments. In accordance with ADGs, development needs to demonstrate how it meets the objective and design criteria. The design criteria set a clear measurable benchmark for how the objective can be practically achieved. If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist in this.

The development is non-compliant with the following Objectives and Design Criteria in Part 3 and 4 of the ADG, including:

- **3E-1 Deep Soil Zones**
15% of the site is to be provided as deep soil on sites greater than 1,500m² with a minimum dimension of 6m. The development provides only 13% of the site as deep soil area, or 9% when only areas of >6m dimension is calculated.
- **3F-1 Visual Privacy**
The adjacent sites to the south of the development site are zoned R2 Low Density Residential and currently contain single dwelling houses per lot. Setback of the Kinghorne portion of the development to the adjoining southern property boundary requires a minimum setback of 9m. A setback of 6m is proposed to the 3rd level in this location which does not comply.
- **3H-1 Vehicle Access**
The proposal to access the development from the Regionally Classified Road (Albatross Road) is not supported and per SEPP (Transport and Infrastructure) 2021, access should be via the unclassified local road (Kinghorne Street).

- *3J-2 Bicycle and Car Parking*

Each resident has access to a secure storage cage which is large enough to accommodate a bicycle. It is proposed to provide residential visitor and customer bicycle spaces on the street in the form of post mounted bike rails attached to existing street does or signposts, should Council require them. A condition is recommended for the provision of on-street bicycle parking should the application be approved.

- *4A-1 Solar and Daylight Access*

37 of 55 apartments (67%) receive at least 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter. The ADG requires a minimum of 70%.

13 of 55 apartments (24%) of apartments receive no sunlight between 9am and 3pm in mid-winter. The ADG requires a maximum of 15%.

While the numerical compliance is an assessment of the overall development, it is noted that it is predominantly single aspect, and 1-bedroom apartments are generally not naturally ventilated and will therefore rely on mechanical ventilation. Of concern is that none of the proposed 1-bedroom apartments will be naturally ventilated.

- *4D-3 Apartment Size and Layout*

1-bedroom apartment widths are 3.5m - this is marginally under minimum 3.6m required under the ADG. The non-compliance is considered to be marginal and does not impede the usable area of the living rooms and would not likely have a significant detrimental impact on the amenity of the dwelling or resident use of the units if this was a singular issue. However, it is noted that the design of the single bedroom units is impacted by the proposed design and overall amenity of these units reduced.

- *4E-1 Private Open Space and Balconies*

A number of the ground floor units do not provide at least 15sqm (G.04, G.08 and G.09) while other apartments do not provide a minimum depth of 3m (G0.2, G.03, G.04, G.08, G.10).

- *4F-1 Common Circulation and Spaces*

The maximum number of apartments off a circulation core on a single level is eight (8). Lobby B services 11 apartments on levels 01, 02, and 10 apartments on Level 03. The corridors have been designed with light slots to capture natural light and ventilation to maintain a high level of amenity.

- *4K-2 Apartment Mix*

The ADG requires the apartment mix to be distributed to suitable locations within the building. The mix of one-bedroom units is not considered to provide an appropriate distribution to suitable locations within the building.

The single bedroom units are limited to the southern elevation of the V-shaped building design which has resulted in units with severely compromised solar access, ventilation and private open space that will likely result in units with diminished amenity. The irregular floor plans will also result in odd shaped rooms and the potential loss of the use of usable space within these units.

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It is considered that the single bedroom units should be spread more evenly throughout the development to enable these units a greater likelihood for increased amenity

Appendix A to the Section 4.15 Assessment Report (**Attachment 1**) provides a full assessment of the proposed development against each of the objectives of the ADG.

v. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP (BASIX))

The provisions of SEPP (BASIX) apply to the site. In accordance with the requirements of SEPP BASIX, Certification for each dwelling has been submitted with the development application.

Clause 55A of the EP&A Regulation 2000 allows for a development application to be amended provided a new BASIX certificate is submitted to account for those amendments. An amended BASIX Certificate, to reflect amended plans was not submitted with the amended application.

Council cannot issue development consent without the provision of a new BASIX Certificate that reflects the amended application i.e., 55 residential units.

Planning Assessment

The DA has been assessed under s4.15 of the Environmental Planning and Assessment Act 1979. Please refer to **Attachment 1**.

It is noted that on 1 March 2022, the thematic State Environmental Planning Policies (SEPPs) commenced with 11 new SEPPs introduced which re-organised and repealed 45 former SEPPs. Former SEPPs which applied at the time of the lodgement of this DA, now exist as 'Chapters' within the new instruments.

There are no savings and transitional provisions contained in the new instruments. Rather, each instrument contains a 'transferred provision' clause which states that section 30A of the Interpretation Act 1987 is taken to apply. This means that the transfer of clauses to the new instruments will not affect their operation, and the clauses should be construed as if they had not been transferred.

Accordingly, the assessment within the section 4.15 Planning Report at **Attachment 1** assesses the proposal under the former SEPPs, however as the former SEPPs no longer apply to existing development applications and consents, and the new SEPPs apply instead the new references to SEPPs have been updated in the recommended notice of determination. [Planning Circular PS21-007](#) issued by the Department of Planning and Environment outlines the rollover of SEPPs and which of the former SEPPs have been incorporated and repealed by the new SEPPs.

Additionally, in relation to the EP&A Regulations, the *Environmental Planning & Assessment Regulation 2021* was introduced on 1 March 2022. Per the Schedule 6 Savings, transitional and other provisions, the 2000 Regulation continues to apply instead of the 2021 Regulation to a development application made but not finally determined before 1 March 2022. Accordingly, the SEPP65 and BASIX assessments reference a now repealed Regulation.

Policy Implications

A key policy consideration is height.

Currently, there is an 8.5m and 14m height limit which applies to the site under SLEP 2014.

The development proposed exceeds the maximum building height as follows:

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- 14m height limit by 480mm or 3.4%;
- 8.5m height limit 1.465m or 17.2%; and
- The percentage exceedance of the maximum building height ranges from 1.4% to 17.2% with the average height limit exceedance being 4.83%.

The variation has been addressed by the applicant via a formal clause 4.6 variation statement. The matter is discussed in the attached section 4.15 report in further detail (**Attachment 1**) and has been mentioned previously in this Report.

Consultation and Community Engagement:

Six (6) public submissions were received in relation to Council's notification of the development. Six (6) were objections to the development. Nil (0) were in support of the development. The notification was made in accordance with Council's Community Consultation Policy. The application was notified for a period of 30 days and advertised in the local papers in accordance with Council's Community Consultation Policy.

Key issues raised as a result of the notification are provided below:

- Traffic impacts on the local road network.
- Impact of additional cars parking on the on-street car parking.
- Amenity impacts associated with overlooking and overshadowing.
- Insufficient justification and planning purpose to support the PP.
- The bulk and scale of the development is not consistent with the low scale development to the south of the site and the site would be better developed for multi-dwelling housing.
- The proposed setbacks of the development to the southern boundary are not appropriate.
- The pedestrian access point to the development on the Kinghorne Street frontage will result in safety and security issues.

The planning concerns raised by the submitters are addressed in the attached section 4.15 report in further detail (**Attachment 1**).

Financial Implications:

There are potential cost implications for Council in the event of a refusal of the application. Such costs would be associated with defending any appeal in the Land and Environment Court (LEC), should the applicant utilise appeal rights afforded under the EP&A Act.

Legal Implications

Pursuant to section 8.2 of the EP&A Act, a decision of the Council may be subject of a review by the applicant in the event of approval or refusal. If such a review is ultimately pursued (if the recommendation is not adopted), the matter would be put to Council for consideration.

Alternatively, an applicant may also appeal to the Court against the determination pursuant to section 8.7 of the EP&A Act.

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Summary and Conclusion

This application has been reported to Council several times with a recommendation of refusal. Following the deferral of the application at Council's Ordinary Meeting on 26 October 2021 the applicant has been unwilling to amend the proposal to meet Council's concerns and the reasons and assessment recommending the refusal of the DA (as outlined at **Attachments 1 and 2**) remain the same.

Based upon the s4.15 Assessment Report (**Attachment 1**) it is recommended that Development Application No. DA16/1465 be refused for the following reasons.

1. The development has failed to satisfy Council of preconditions Section 2.118(2)(a) and (b) of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (s4.15(1)(a)(i) of the EP&A Act).

In accordance with Section 2.118(2)(a) and (b) of the Transport and Infrastructure SEPP, Council must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land.

2. Non-compliance with SEPP 65 in relation to the Apartment Design Guide (s4.15(1)(a)(i) of the EP&A Act);

The development fails to satisfy clause 30(2)(a) and (b) of SEPP 65, in that the development does not demonstrate that adequate regard has been given to:

- (a) the design quality principles (Principle 2: Built form and scale; Principle 3: Density; Principle 4: Sustainability; Principle 5: Landscape; Principle 6: Amenity), and
- (b) the objectives specified in the Apartment Design Guide for the relevant design criteria (3E-1 Deep Soil Zones, 3F-1 Visual Privacy, 3H-1 Vehicle Access, 3J-2 Bicycle and Car Parking, 4A-1 Solar and Daylight Access, 4D-3 Apartment Size and Layout, 4E-1 Private Open Space and Balconies, 4F-1 Common Circulation and Spaces, 4K-2 Apartment Mix).

3. The proposal exceeds the maximum building height development standard under clause 4.3 of SLEP 2014. The applicant's written request to vary the maximum building height development standard has not adequately addressed matters required to be demonstrated by clause 4.6(3)(a) and (b) of SLEP 2014. The applicant's clause 4.6 Variation Request does not provide sufficient environmental planning grounds to support the variation, nor that compliance is unnecessary or unreasonable. (s4.15(1)(a)(i) of the EP&A Act).
4. Clause 55A of the *Environmental Planning and Assessment Regulation 2000* allows for a development application to be amended provided a new BASIX certificate is submitted to account for those amendments. An amended BASIX Certificate, to reflect amended plans was not submitted with the amended application.
5. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter G21:

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Car Parking and Traffic Shoalhaven Development Control Plan 2014 (SDCP 2014)
(s4.15(1)(a)(iii) of the EP&A Act):

- (a) 5.2 Traffic.
 - (b) 5.4 Access.
6. The development is likely to have adverse impacts on the built environment (s4.15(1)(b) of the EP&A Act).
 7. The site is not suitable for the development as proposed (s4.15(1)(c) of the EP&A Act).
 8. The development is not in the public interest (s4.15(1)(e) of the EP&A Act).

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Address all correspondence to: The Chief Executive Officer,
PO Box 42, Nowra NSW 2541 Australia
shoalhaven.nsw.gov.au/contact | 1300 293 111

shoalhaven.nsw.gov.au     

**NOTICE TO APPLICANT OF DETERMINATION OF DEVELOPMENT APPLICATION
BY WAY OF REFUSAL**

Environmental Planning and Assessment Act, 1979
DA16/1465

TO:

Lee Carmichael Town Planning
76 Berry Street
NOWRA NSW 2541

being the applicant(s) for DA16/1465 relating to:

4 Albatross Rd, NOWRA - Lot 29 - DP 25114
173 Kinghorne St, NOWRA - Lot 1 - DP 25114
2 Albatross Rd, NOWRA - Lot 30 - DP 25114

REFUSED USE AND/OR DEVELOPMENT:

Demolition of existing structures and construction of a mixed use development consisting of 55 apartments including 15 x three bedroom, 34 x two bedroom and 8 x 1 bedroom apartments, a basement car parking area and 3 commercial tenancies at ground floor with frontage to both Kinghorne St and Albatross Road

DETERMINATION DATE:

REFUSAL DATE:

Pursuant to Section 4.18 of the Act, notice is hereby given that the above application has been determined by **REFUSAL** for the reasons as outlined in Part A:

Determination Notice by way of Refusal - Page 2 of 3 - DA16/1465

REASONS FOR REFUSAL

1. The development has failed to satisfy Council of preconditions Section 2.118(2)(a) and (b) of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (s4.15(1)(a)(i) of the EPA Act).
In accordance with Section 2.118(2)(a) and (b) of the Transport and Infrastructure SEPP, Council must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
 - (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land.
2. Non-compliance with SEPP 65 in relation to the Apartment Design Guide (s4.15(1)(a)(i) of the EPA Act);
The development fails to satisfy clause 30(2)(a) and (b) of SEPP 65, in that the development does not demonstrate that adequate regard has been given to:
 - (a) the design quality principles (Principle 2: Built form and scale; Principle 3: Density; Principle 4: Sustainability; Principle 5: Landscape; Principle 6: Amenity), and
 - (b) the objectives specified in the Apartment Design Guide for the relevant design criteria (3E-1 Deep Soil Zones, 3F-1 Visual Privacy, 3H-1 Vehicle Access, 3J-2 Bicycle and Car Parking, 4A-1 Solar and Daylight Access, 4D-3 Apartment Size and Layout, 4E-1 Private Open Space and Balconies, 4F-1 Common Circulation and Spaces, 4K-2 Apartment Mix).
3. The proposal exceeds the maximum building height development standard under clause 4.3 of SLEP 2014. The applicant's written request to vary the maximum building height development standard has not adequately addressed matters required to be demonstrated by clause 4.6(3)(a) and (b) of SLEP 2014. The applicant's clause 4.6 Variation Request does not provide sufficient environmental planning grounds to support the variation, nor that compliance is unnecessary or unreasonable. (s4.15(1)(a)(i) of the EPA Act).
4. Clause 37 of the *Environmental Planning and Assessment Regulation 2001* allows for a development application to be amended provided a new BASIX certificate is submitted to account for those amendments. An amended BASIX Certificate, to reflect amended plans was not submitted with the amended application.
5. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter G21: Car Parking and Traffic Shoalhaven Development Control Plan 2014 (SDCP 2014) (s4.15(1)(a)(iii) of the EPA Act):
 - (a) 5.2 Traffic.
 - (b) 5.4 Access.
6. The development is likely to have adverse impacts on the built environment (s4.15(1)(b) of the EPA Act).
7. The site is not suitable for the development as proposed (s4.15(1)(c) of the EPA Act).
8. The development is not in the public interest (s4.15(1)(e) of the EPA Act).

Determination Notice by way of Refusal - Page 3 of 3 - DA16/1465

RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

GENERAL ADVICE

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the Government Information (Public Access) Act 2009 (GIPAA).

SIGNED on behalf of Shoalhaven City Council:

CL22.253 Development Application - DA22/1281 - 13 The Bastion Manyana - Lot 871 DP 263106

DA. No: DA22/1281/4

HPERM Ref: D22/199718

Department: Development Services

Approver: James Ruprai, Director - City Development

Attachments:

1. Planning Report S4.15 Assessment (under separate cover) [⇒](#)
2. Draft Determination (under separate cover) [⇒](#)
3. Development Plans (under separate cover) [⇒](#)

Description of Development: Attached Dual Occupancy

Owner: JFPG011 Pty Ltd

Applicant: Le Mottee Group Pty Ltd

Notification Dates: 18 March 2022 to 4 April 2022

No. of Submissions: 30 in objection and 1 in support

Purpose / Reason for consideration by Council

The application was called in for determination by the Council “*due to the public interest and character of the area*” by a Notice of Motion dated 26 April 2022 MIN22.309

Recommendation (Item to be determined under delegated authority)

That Development Application DA22/1281 to construct a two-storey attached dual occupancy at Lot 871 DP 263106, 13 The Bastion, Manyana be approved subject to the conditions contained in Attachment 2 of this report.

Options

1. Approve the development application (DA) in accordance with the recommendation of this report.

Implications: This would allow the applicant to pursue construction of the development.

2. Refuse the application.

Implications: Council would need to determine planning grounds on which the application is refused, having regard to section 4.15 “Evaluation”. A refusal enables the applicant to lodge a section 8.2 Review and / or appeal with the Land and Environment Court.

3. Alternative recommendation.

Implications: Council will need to specify an alternative recommendation and advise staff accordingly.

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Location Map



Background

Proposed Development

The proposal is for an attached two storey dual occupancy development, each containing 3 bedrooms on the upper level. Each dwelling has a single garage facing the street. A recessed upper-level verandah is provided to the upper level facing the street.

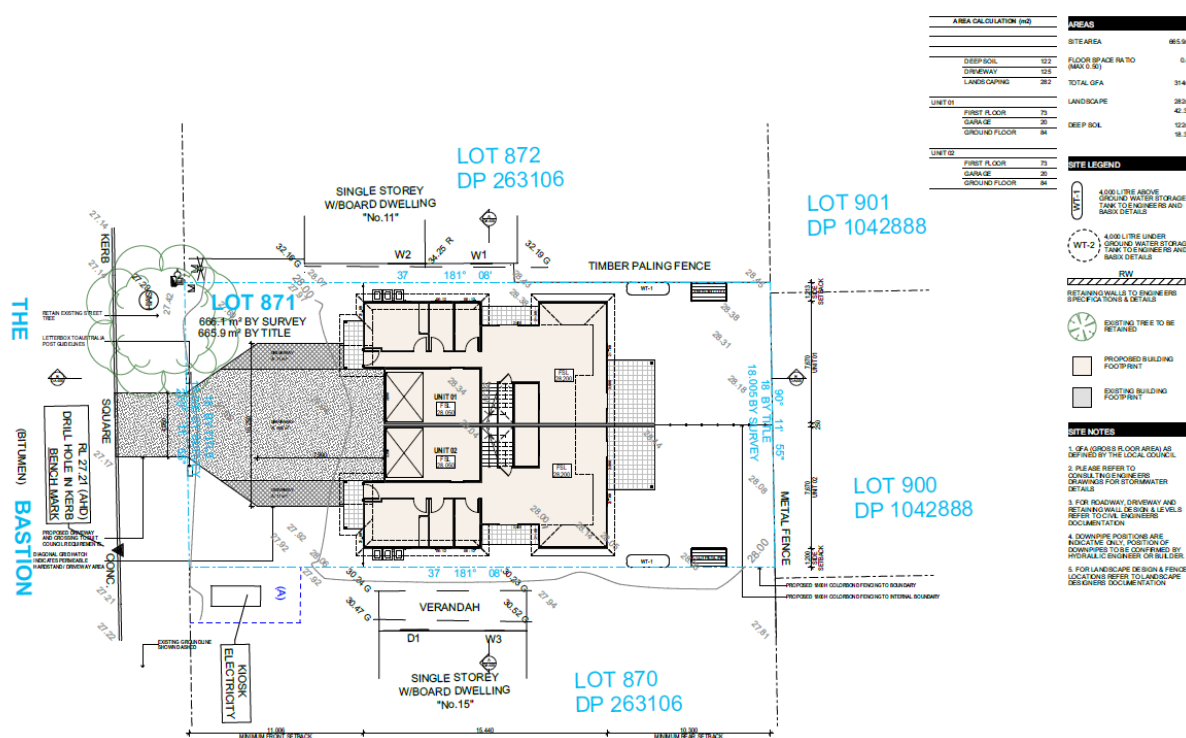


Figure 1: Site Plan

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PROPOSED DEVELOPMENT AS SEEN FROM THE STREET



PROPOSED DEVELOPMENT AS SEEN FROM THE REAR

Figure 2: Front & Rear Perspectives

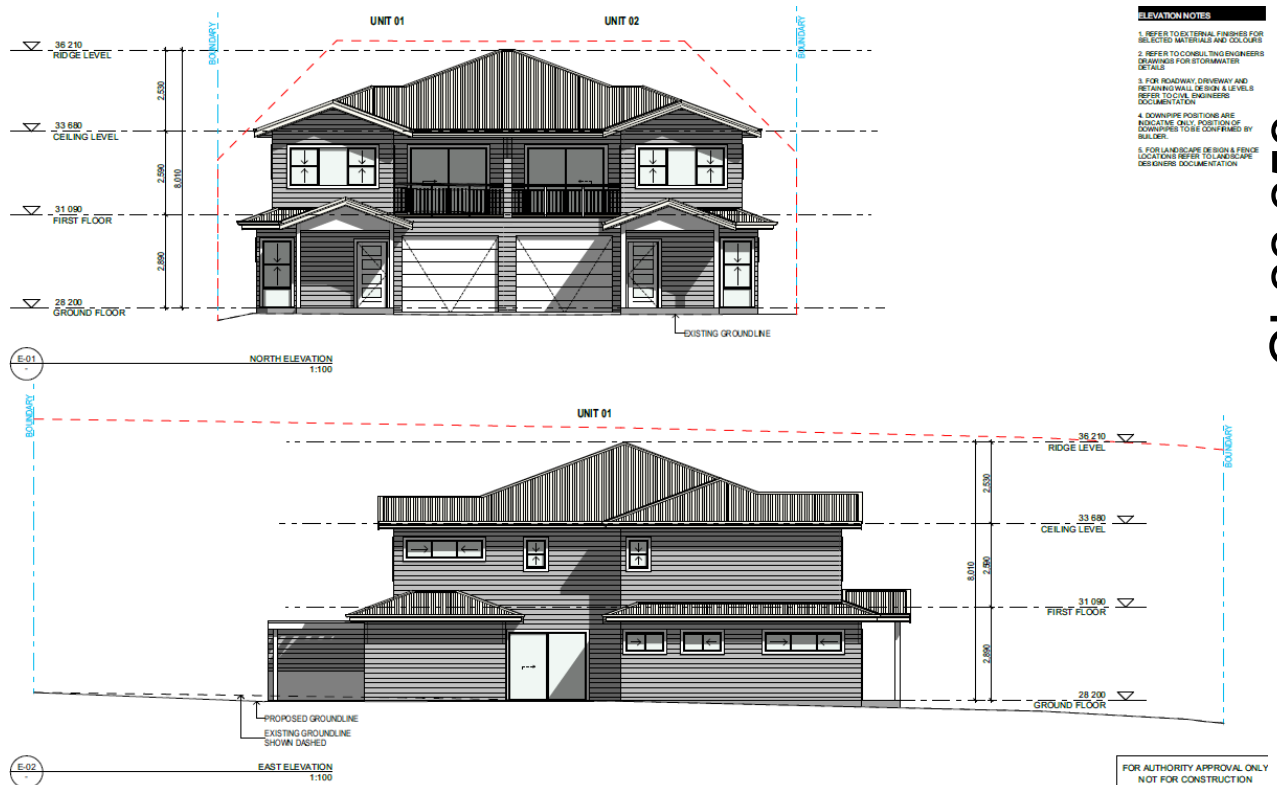


Figure 3: North & East Elevations

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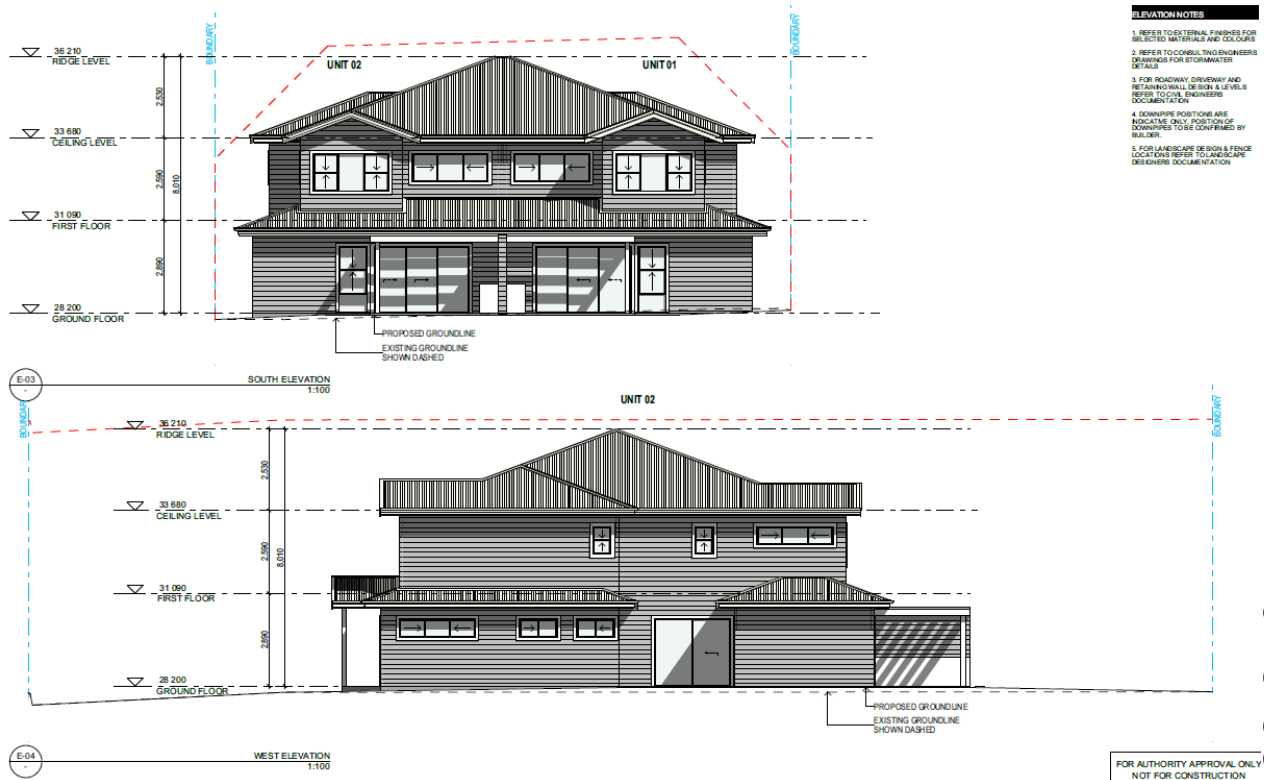


Figure 4: South & West Elevations

Subject Land

The development site is Lot 871 DP 263106, 13 The Bastion Manyana

Site & Context

The site is:

- Located on the south side of The Bastion Manyana.
- It has an area of 665.9m² with an 18m frontage to The Bastion with a depth of 37m,
- Zoned R2 Low Density Residential under the *Shoalhaven Local Environmental Plan 2014* (SLEP2014)
- Surrounded by low density development which is a mix of one and two storey dwellings.
- Reasonably flat with a slight slope from the west to east.
- Currently vacant.
- Approximately 860m west of Manyana Beach and 2 km south from the junction of Innyada Drive and Bendalong Road.

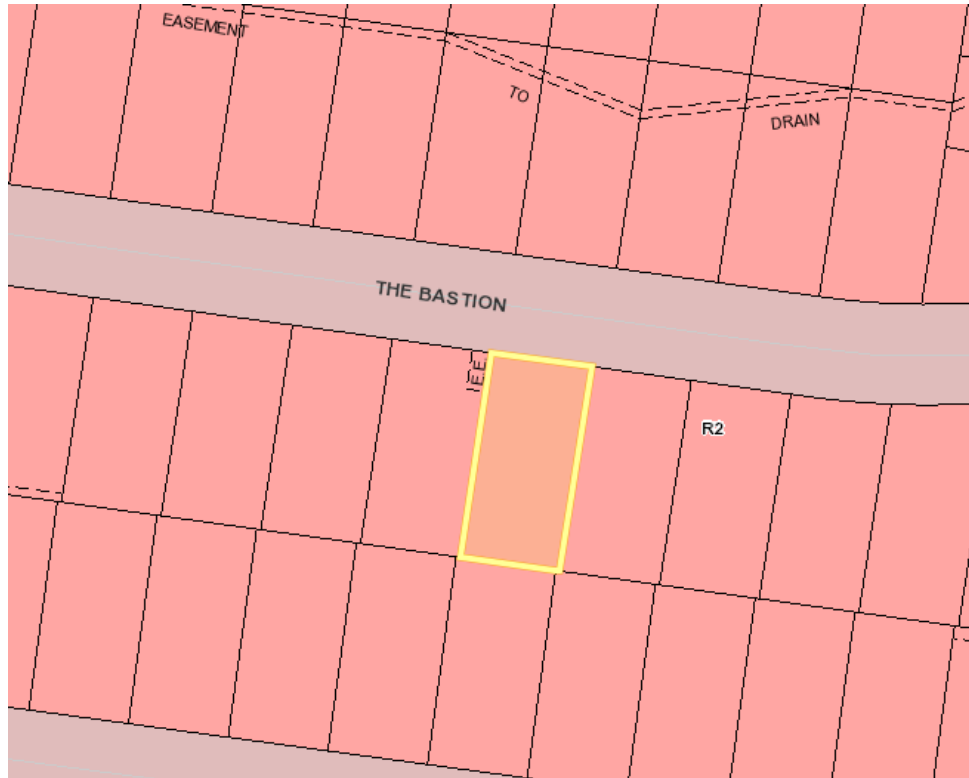


Figure 5 - Zoning Map – R2 Low Density Residential Land

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History

The following provides details on pre-lodgement discussions, post-lodgement actions and general site history for context:

- No informal enquiries or formal pre lodgement discussions were held prior to lodgement.
- The application was lodged on 9 March 2022.
- The application was referred for technical comment on 21 March 2022.
- No further information was requested from the applicant.

Planning Assessment

The Development Application has been assessed under s4.15 of *the Environmental Planning and Assessment Act 1979*. (Attachment 1.)

The proposed application has been assessed against the relevant planning instruments and have been found to be satisfactory

Consultation and Community Engagement:

Thirty-one (31) public submissions were received in relation to Council's notification of the development. Thirty (30) were objections to the development including two (2) submissions from the same objectors and two (2) from Red Head Village Association. One (1) was in support of the development. Notification was made in accordance with Council's Community Consultation Policy with letters being sent within a twenty-five metre (25m) buffer of the site. The notification was for a two (2) week period.

Key issues raised as a result of the notification are provided below.

Issue

That the proposed development would be used for holiday letting for a large number of people which impacts on the amenity of the neighbourhood

Comment

The potential for holiday letting is not a town planning consideration for a dual occupancy application.

Holiday letting is exempt development in dwellings, including dual occupancy dwellings, under SEPP (Housing) 2021 – Short Term Accommodation which applies to the entire State.

Issue

The proposal is of a bulk and scale that is inconsistent with the surrounding coastal character of the area.

Comment

To assist in controlling bulk and scale, Council has certain controls for development.

Council has adopted a Floor Space Ratio (FSR) for this type of development. A FSR is a control used to define or control the size of a building and intensity of development on a parcel of land. The Council has adopted (in its Development Control Plan (DCP) Chapter G13 - Medium Density and Other Residential Development) 0.5:1 for sites less than 1,000m² in area. The development complies with the FSR control.

An 8.5m height limit (*Shoalhaven Local Environmental Plan 2014*) applies to the site. The development complies with the height, being 8.1m.

With regard to compatibility with existing development, some guidance can be taken from Land and Environment Court principles. The relevant principle is “compatibility with context” in *Project Venture Developments V Pittwater Council [2005] NSWLEC 191*. In order to test whether a proposal is compatible with its context, the following two questions can be asked:

- i. Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

The physical impacts on surrounding development have been assessed against the relevant provisions in Shoalhaven Development Control Plan 2014 (DCP) and found to be compliant. The impacts on surrounding amenity, solar access and streetscape character are considered acceptable.

- ii. Is the proposal's appearance in harmony with the buildings around it and the character of the street?*



Figure 6 – Subject site (Yellow border) Two storey construction (blue dots)

It is considered that the proposed two storey modern design is in harmony with surrounding development and is consistent with the character of the existing streetscape, which is a mix of one and two storey dwellings, which also use similar pitched roofs. Although the street predominantly has single storey dwellings, there are (10) two storey dwellings in The Bastion.

The proposed dual occupancy complies with the DCP building envelope, setbacks and FSR requirements. The design is sympathetic to the eclectic mix of one and two storey dwellings in the street.

Issue

Increasing the density of the area considering the recent bushfires by putting further responsibility on the neighbourhood and evacuation during bushfires, especially if it is used for holiday makers.

Comment

Dual occupancy development is permissible in the R2 zone under SLEP2014.

The lot is mapped as bushfire prone. A bushfire report from a Bpad qualified bushfire consultant was provided with the application and an assessment in accordance with Planning for Bushfire Protection 2019 (PBP2019) made. The assessment is satisfactory. The construction of the building must comply with a "Bushfire Attack Level (BAL) 12.5.

The application is for an attached dual occupancy. The occupancy of the building whether owner occupier, long term or short-term rental is not a planning consideration.

Issue

Allowing a dual occupancy development will set a precedent for more dual occupancies in the area.

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Comment

Dual occupancy development is a legally permissible use under the current planning instrument and under 2(a1) zoning of the former *Shoalhaven Local Environmental Plan 1985*. The development of more dual occupancies will be contingent on land availability and the aspirations of owners as well as any market considerations.

Issue

Dual occupancy development is not consistent with the objectives of the R2 Low Density Residential zone which has as one of the objectives 'to provide an environment primarily for detached housing and to ensure that other development is compatible with that environment'.

Comment

Detached and attached dual occupancies are a mandated land use type in the R2 Low Density Residential zone. The objective of the R2 Zone states:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- **To provide an environment primarily for detached housing and to ensure that other development is compatible with that environment.**

The objective says primarily for detached housing and not entirely. The attached dual occupancy is of a compatible bulk and scale to other two storey development in the area and complies with DCP requirements for bulk and scale, FSR, solar access and setbacks.

Issue

The adjoining neighbours have raised concerns regarding solar access and privacy impacts to their properties.

Comment

The applicant has provided shadow diagrams that indicate that the neighbouring properties will receive a minimum 3 hours sunlight between 9am and 3pm on 21 June which complies with the DCP and the Planning Principle of the Land and Environment Court for sunlight access. The main living areas and private open space are on the ground floor and fencing between properties will provide privacy to neighbours, which is compliant with the DCP. There is a small sitting room which adjoins the front balcony and overlooks the street frontage not any neighbouring dwellings.

Issue

Potential for dual occupancy development to increase the demand on local infrastructure.

Comment

The existing infrastructure is considered adequate for the proposed dual occupancy development which is a permissible use in the zone.

Issue

Noise from holiday makers using the dwellings

Comment

Whether the proposed dwellings are used for holiday letting, or the tenancy arrangements of the development generally, is not a planning consideration.

Issue

Inadequate car parking and increased traffic will impact on the surrounding amenity.

Comment

The application provides for two car parking spaces on site for each dwelling which complies with the DCP requirements. The traffic generated from two dwellings will not have a significant impact on the surrounding road network.

Issue

No adaptable unit has been provided.

Comment

In accordance with the DCP, adaptable units are not required in a dual occupancy development. This provision applies where 3 or more dwellings are proposed.

Issue

The proposal will impact on property values.

Comment

The potential for impacts on property values is not a consideration for the development application under section 4.15. Property values are determined by a number of factors such as overall location, quality and age of buildings, proximity to services etc.

Issue

Trees have been cleared from the property.

Comment

The land is zoned R2, it is possible that the trees were removed in accordance with Council's DCP Chapter 4 exemption policy which allows removal of trees where a tree is closer than its own height from an approved building – these being the neighbouring dwellings to the east and west.

Issue

The ability to subdivide duplexes is effectively abandoning the minimum allotment control for the whole of Manyana.

Comment

The current application before council does not seek any subdivision.

It is however logical to permit development such as a dual occupancy or other housing types and allow for them to be subdivided to create land title for people to buy those homes.

Issue

That the survey ground level heights on the neighbouring dwelling are incorrect. As the RL is 29 and not 30.3 which is misleading.

Comment

The 30.3 reference is the level of the gutter of the dwelling not the ground level.

Financial Implications:

There are potential cost implications for Council in the event of a refusal of the application/s. Such costs would be associated with defending an appeal/s in the Land and Environment Court of NSW.

Legal Implications

A section 8.2 review and / or an appeal with the Land and Environment Court are possible if the application is refused.

Summary and Conclusion

The proposed development has satisfied the provisions of SLEP 2014, and the overall objectives and provisions contained within Shoalhaven Development Control Plan (SDCP) 2014.

This application has been assessed and found to be satisfactory. There are no planning reasons which warrant refusal of this development.

The application for the attached dual occupancy development is compliant with the relevant planning instruments and controls and is therefore recommended for determination by way of approval subject to conditions outlined in Attachment 2 of the draft determination.

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CL22.254 Pump Track Investigations - Potential Sites and Way Forward

HPERM Ref: D22/191767

Department: Community Planning & Projects

Approver: Kevin Norwood, Manager - Shoalhaven Swim Sport Fitness

Attachments:

1. Photographs - Existing BMX Circuits and Pump Tracks in the Shoalhaven (under separate cover) [⇒](#)
2. Sussex Inlet Pump Track - Desktop Site Investigations and Analysis [↓](#)
3. Bomaderry Pump Track - Desktop Site Investigations and Analysis [↓](#)
4. Sanctuary Point Pump Track - Desktop Site Investigations and Analysis [↓](#)

Reason for Report

To update Council on outcomes of preliminary investigations and to determine a way forward for proposed pump tracks at:

- Sussex Inlet (MIN21.536)
- Bomaderry (MIN21.580)
- Sanctuary Point (MIN21.805)

Recommendation

That Council:

1. Receive this report as an update on:
 - a. Site criteria for provision of pump tracks in Shoalhaven
 - b. Locations and condition of existing BMX circuits and pump tracks in Shoalhaven
2. Recognise that proposed pump tracks at Sussex Inlet, Bomaderry and Sanctuary Point are currently unfunded projects.
3. Endorse the following Council owned / managed reserves as shortlisted sites for future investigation for the proposed Sussex Inlet pump track:
 - a. Thomson Street Sporting Complex
 - b. Crown Reserve R69668
4. Endorse Edwards Avenue Reserve, Bomaderry for future investigation as a potential suitable site for the proposed Bomaderry pump track
5. Endorse the following Community Land as shortlisted sites for future investigation for the proposed pump track at Sanctuary Point:
 - a. Sanctuary Point Public Reserve
 - b. Sanctuary Point Road Reserve
 - c. Yellow Bellied Glider Reserve
6. Further investigate potential for the shortlisted sites through community consultation at such a time at which the pump track projects can be allocated into the Community Planning and Projects Work Plan to:

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- a. Determine community support
 - b. Determine desired location
 - c. Determine potential funding options for the proposed pump tracks
7. Receive further reports on consultation outcomes, preferred sites, budget required and potential funding sources to plan and deliver the proposed pump tracks at Sussex Inlet, Bomaderry and Sanctuary Point.

Options

1. Adopt the recommendation as written.

Implications: This is in accordance with Council's resolutions (MIN.21.536, MIN21.580 and MIN21.805) as it identifies a number of suitable locations for proposed pump tracks in Sussex Inlet, Bomaderry and Sanctuary Point to present for community feedback. It allows Council to receive a further progress report at conclusion of community consultation and to identify required budget and potential sources of funding.

2. Adopt an alternate recommendation.

Implications: Council to provide direction on further actions and responsibilities in relation to the proposed pump tracks in Sussex Inlet, Bomaderry and Sanctuary Point.

Background

Council's Provision of Local Area BMX Circuits Policy (POL16/109) provides criteria and guidelines to identify the need and provision of Bicycle Motocross (BMX) circuits to ensure that unauthorised bike initiatives, such as mounds or trails, do not cause conflict with users of public reserves. The identified purpose of Council's Provision of Local Area BMX Circuits Policy is:

"To define Council's requirements for the provision of a Local Area BMX Circuit."

In 2021, a number of Notices of Motion (NoMs) were presented to Council in relation to investigations for pump tracks in Sussex Inlet, Bomaderry and Sanctuary Point localities.

Sussex Inlet

At Council's Strategy and Assets Committee Meeting in July 2021, a Notice of Motion was reported to Council, where the following was adopted (MIN21.536):

That Council:

1. *In consultation with the community, take action to identify a suitable location for a pump track at Sussex Inlet.*
2. *Apply for grant funding to fund the project.*
3. *Include the project in a future Operational Plan.*

Bomaderry

At Council's Ordinary Meeting in August 2021 MIN21.580 was adopted:

That Council:

1. *Work with Bomaderry Inc, Bomaderry CCB, Pride of Bomaderry, sporting clubs and other interested parties to identify the most suitable location in the Bomaderry area for the establishment of a pump track.*

2. Add the Bomaderry Pump Track to its list of unfunded projects and look for future funding opportunities to progress the project.

Sanctuary Point

At Council's Ordinary Meeting in November 2021 MIN21.805 was adopted:

That Council produce a scoping study and estimate of costs to design and construct, in collaboration with the community, a BMX Pump Track on Community Land at a location to be determined through community consultation (such as Clifton Park Sanctuary Point adjacent to the existing learn-to-ride bicycle track). On completion of this phase, sources of funding would need to be identified.

Defining BMX Circuits and Pump Tracks

BMX circuits and pump tracks have similar qualities and provide a similar experience yet contain distinct features. Currently, the provision of both of these types of infrastructure is under Council's Provision of Local Area BMX Circuits Policy with no distinction or acknowledgement between the two track types.

BMX circuits, historically, have a definitive start and finish, with the starting point generally on a high raised mound which drops into the main track, then requires the rider to pedal to reach the end point. Generally, various types of dirt jumps, rollers and large 'bermed' turns (corners) are provided for the rider to navigate prior to finishing the track as illustrated in Figure 1.

Pump tracks, however, are circuitous and made into a loop with riders of the track gaining and maintaining momentum by "pumping" with whole body movements rather than pedalling. The features of a pump track are more consistent with rollers and 'berms' which can be ridden with minimal pedalling as illustrated in Figure 2.

Provision of Local Area BMX Circuits Policy has, historically, been successful in defining the role of Council and community in providing BMX circuits on public land. The more recent works, to upgrade Kangaroo Valley BMX Circuit to a sealed pump track and new pump track at Shoalhaven Heads, were not subject to consideration of all aspects of the Policy. With BMX circuits and pump tracks being similar infrastructure, some criteria from the Policy can be applied to ensure environmental aspects are considered and community expectations are met.



Figure 1 BMX Track (Source: Bike Tracks Australia)



Figure 2 Pump Track (Source: Velosolutions)

Existing BMX Circuits and Pump Tracks

Council staff from Community Planning and Projects undertook desktop investigations and site visits of existing BMX circuits and pump tracks within Shoalhaven.

There are ten (10) known existing BMX circuits and pump tracks within Shoalhaven, illustrated in Figure 3, which are located on land under multiple ownership and management, including:

- Crown Land
- Council-owned land
- NSW State Forest

A pump track is being delivered as Stage 2 of Boongaree (previously Berry District Park), with construction to commence on 6 June 2022, and the works anticipated to be completed by the end of the year. Additionally, a pump track is included under the draft Ulladulla Sports Park Masterplan endorsed by Council to progress to public exhibition in May 2022.

While Council has been involved in funding, partially or in full, and maintenance of some of the tracks within Shoalhaven, other infrastructure has been constructed and may be maintained by community members. At some sites, there is evidence that the infrastructure has been upgraded and / or amended, i.e., shovels to indicate trail building, from its initial approved form. Some of the infrastructure in Table 3 may be considered informal due to Council not being involved in its planning or operation.

Council staff from Community Planning and Projects undertook site visits to provide a preliminary basic visual condition assessment for existing BMX Circuits and Pump Tracks. A more detailed analysis and condition assessment may be required by the Asset Custodian or another suitably qualified staff for a comprehensive asset assessment.

The existing BMX circuits and pump track infrastructure have been assessed against Council's Conditions Rating Table – see Table 1 – with conditions assigned from a basic visual assessment on track condition, ride-ability and maintenance required.

Photographs of these BMX circuits and pump tracks are included in Attachment 1.

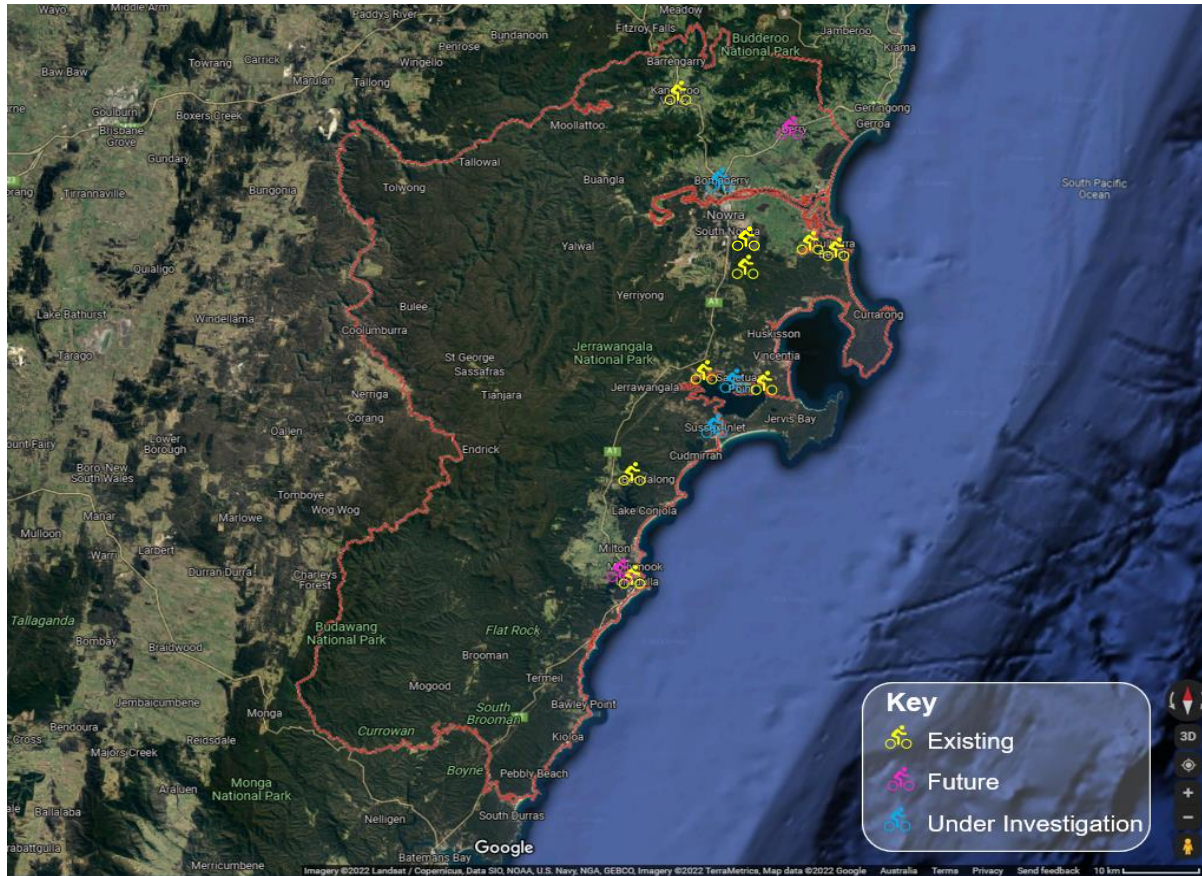


Figure 3 Locations of known BMX circuits and pump tracks in the Shoalhaven

Table 1 Conditions ratings for existing BMX tracks and pump tracks

Scale	Condition of asset
Very Poor Condition	<ul style="list-style-type: none"> Structure has failed and is not operational Maintenance is not viable Unfit for purpose Environmental/contamination/pollution issues exist
Poor Condition	<ul style="list-style-type: none"> Structure is badly deteriorated Potential structural problems Inferior appearance Major defects
Fair Condition	<ul style="list-style-type: none"> Average condition Significant defects are evident Services are functional but maintenance is required Deferred maintenance work exists
Good Condition	<ul style="list-style-type: none"> Minor defects Superficial deterioration Major maintenance not required
Very Good Condition	<ul style="list-style-type: none"> No defects As new condition and appearance

Table 2 Overview of existing BMX circuits and Pump Tracks on Council owned / managed land in the Shoalhaven

Location	Lot DP	Reserve Name	Approximate Reserve Area	Track Type	Approximate Track Dimensions	Approximate Track Size	Land Owner / Manager	Formal / Informal	Condition
Kangaroo Valley	Lot 16 DP 773481	Moss Vale Road Reserve	7,146m ²	Sealed Pump Track	65m x 23m	1,727m ²	Council	Formal	Very Good
Shoalhaven Heads	Lot 7009 DP 1002414	Jerry Bailey Oval	40,799m ²	Sealed Pump Track	92m x 20m	1,971m ²	Crown Lands / Council	Formal	Very Good
Worrigee	Lot 41 DP 807159, Lot 16 DP 806491	Andrew Crescent Reserve	7,663m ²	Dirt BMX Circuit	62m x 40m	2,618m ²	Council	Formal	Poor
South Nowra/ Comberton	N/A	Nowra State Forest	N/A	Dirt Pump Track	39m x 17m	480m ²	State Forestry NSW	Informal	Good
Greenwell Point	Lot A DP 400413	Gordon Ravell Oval	20,300m ²	Dirt BMX Circuit	48m x 22m	1,033m ²	Council	Formal	Very Poor
Culburra Beach	Lot 1414 DP 12278	Curleys Bay Reserve	29,700m ²	Dirt BMX Circuit	39m x 34m	1,042m ²	Council	Formal	Poor
Erowal Bay	Lot 3 DP 874324	Pam Weiss Village Green	5,261m ²	Dirt BMX Circuit	42m x 23m	1,004m ²	Council	Informal	Fair
Fishermans Paradise	Lot 295 DP 26974	Hazel Rowbotham Reserve	29,900m ²	Dirt BMX Circuit	47m x 27m	1,112m ²	Council	Formal	Fair
Basin View	Lot 7020 DP 1056381	Malcolm Moore Reserve	22,403m ²	Dirt BMX Circuit	73m x 60m	6,403m ²	Crown Lands / Council	Formal	Good
Ulladulla	Lot 7020 DP 1056381	Parson St Reserve	5,258m ²	Dirt BMX Circuit	62m x 42m	2,558m ²	Council	Formal	Fair

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Proposed Pump Track Investigations

Eligibility and Site Criteria for BMX Circuits and Pump Tracks

Clauses 3.1 and 3.2 of the Provision of Local Area BMX Circuits Policy (POL16/109) outline Eligibility and Site Selection Criteria for development of a proposed local area circuit. With BMX circuits and pump tracks being similar cycling infrastructure, some of the below criteria from the Policy can be applied to ensure environmental aspects are considered, and community expectations are met for the proposed pump tracks. As such, where circuit and BMX are referenced, these should be assessed in terms of a sealed pump track.

3.1 Eligibility

For a community to be eligible for a proposed local area circuit, it must first meet the following criteria:

- *Demonstration of significant need by local BMX riders*
- *The proposed circuit location meets the site selection criteria*
- *All applications are to be considered and approved through the statutory legislative process prior to construction*
- *Interested community to create and evaluation criteria to weigh upon in successive years*
- *Interested community to create a five-year activation strategy*

3.2 Site Selection Criteria

Sites proposed for the development of BMX circuits must first meet the following selection criteria:

- *Council owned / managed reserve*
- *Consistent with the relevant Plan of Management for the reserve*
- *Relatively flat terrain*
- *Circuit size does not encroach on more than 1/3 of the reserve area*
- *Visual prominence affording casual supervision*
- *Suitable bike access to the reserve*
- *If circuit to be located within 40.0m from a watercourse, the proposal is to be discussed with the Department administering the Water Management Act*
- *Wherever possible, to be located within the area of other recreation facilities and amenities*
- *Close to transport route and local shops*

The Policy outlines that the community is required to demonstrate eligibility prior to site selection, and to undertake community consultation to determine support for the pump track, along with identification of a suitable site which meets the Policy criteria.

Site Investigations

In response to the NoMs, Council staff undertook a detailed desktop analysis of each of the Sussex Inlet, Bomaderry and Sanctuary Point localities to identify potential sites suitable to situate the proposed pump track, with the scope limited to Council owned or managed Community Land.

The ability to situate a pump track is based on estimated size and dimensions based on existing pump tracks. The minimum dimensions required were calculated by averaging the dimensions of existing pump tracks on Council owned or managed land as outlined in Table 2, having dimensions of a minimum 59m x 32m and minimum area of 2,163m².

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Council-owned or managed land was identified through Council's GIS System and was considered against the below criteria to identify possible sites:

1. Council owned / managed reserve:
 - a. Classified as Community Land
 - b. Zoned for Public Recreation
2. Area of reserve is minimum 6,489m²
3. Reserve contains area of minimum 2,163m² with:
 - a. Dimensions of approximately 59m x 32m
 - b. Relatively flat terrain
 - c. Generally cleared of vegetation

Once the above criteria were met, further assessment was undertaken in accordance with the below to result in a shortlist of sites:

- Categorisation of land
- Actions identified in the Community Infrastructure Strategic Plan
- Criteria under the Provision of Local Area BMX Circuits Policy
- Site constraints

The identified shortlisted sites were sent to the Asset Custodian for feedback on forward planning and suitability for the proposed pump track for development on the sites. The shortlisted sites are provided below for each of the Sussex Inlet, Bomaderry and Sanctuary Point localities in order of suitability, if multiple sites were identified.

Sussex Inlet

1. Thomson Street Sporting Complex
2. Crown Reserve R69668

Detailed site analysis for the proposed pump track at Sussex Inlet is included as *Attachment 2*.

Bomaderry

Detailed investigation – included as *Attachment 3* – provides assessment and analysis but concludes suitability of one identified parcel of land in accordance with the above criteria, being Edwards Avenue Reserve, Bomaderry as illustrated below in Figure 4.

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Figure 4 Edwards Avenue Reserve, Bomaderry

Sanctuary Point

1. Sanctuary Point Public Reserve
2. Sanctuary Point Road Reserve
3. Yellow Bellied Glider Reserve

Detailed site analysis for the proposed pump track at Sanctuary Point is included as Attachment 4.

Connectivity to Other Bicycle Infrastructure

Council has a Pedestrian Access & Mobility Plan (PAMP) (D06/96520 - Stage 1 & D12/308835 – Stage 2). The Plan provides the strategy, ranking methodology and mapping to support expansion of paths, pedestrian crossings and bicycle infrastructure across the City. The Plan's purpose is to:

- *Identify priorities for pedestrians and cyclists*
- *Continuously improve the network of footpaths, shared user paths and pedestrian crossings across the City*
- *Assist Council in prioritising works*
- *Demonstrate an integrated approach to “active transport” planning across the City*
- *Assist Council and the community to obtain grant funding for priority improvements*

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Figure 5 to Figure 8 illustrate relevant excerpts from Council's Pedestrian Access & Mobility Plan (PAMP) showing existing and proposed active transport networks for Sussex Inlet, Bomaderry, Sanctuary Point and Bay & Basin localities.

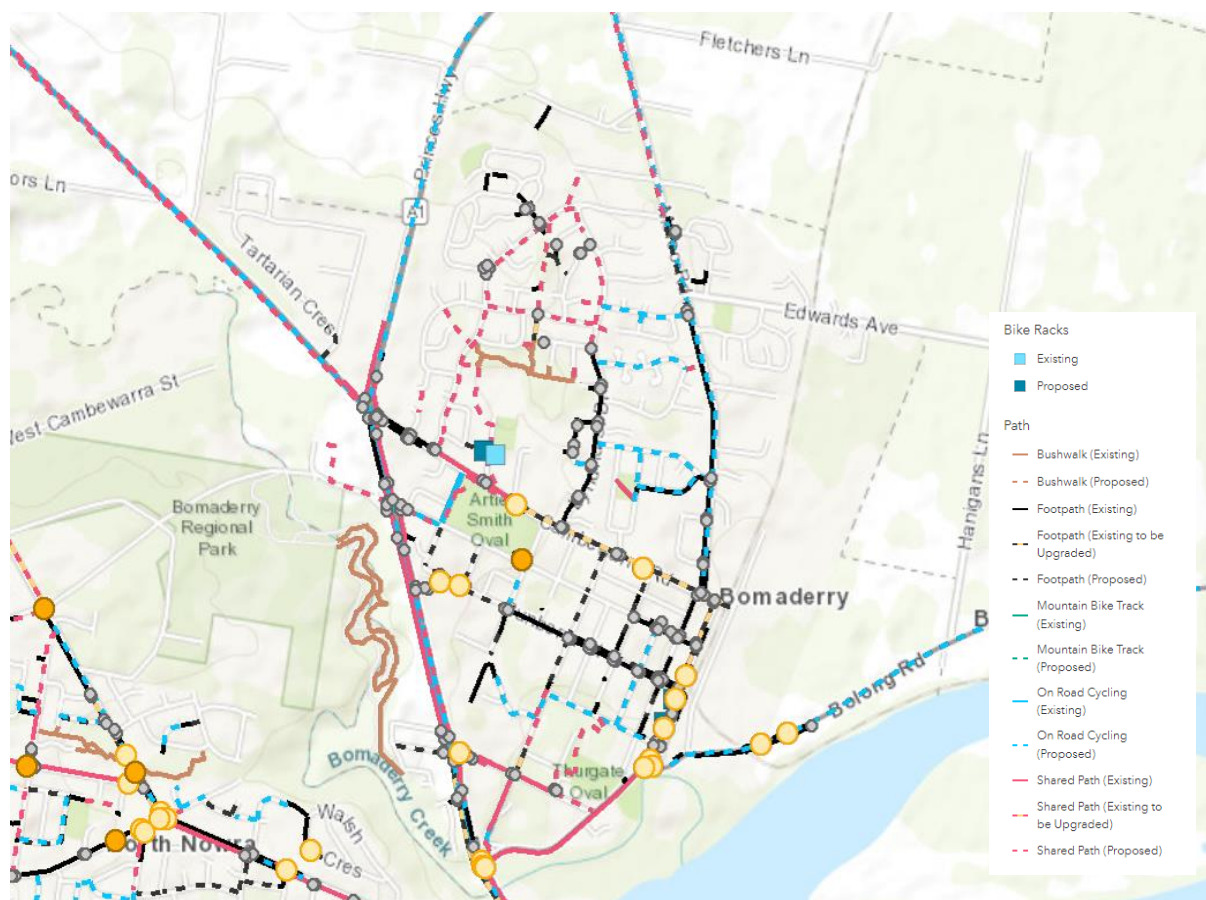


Figure 5 Bomaderry excerpt of Council's PAMP

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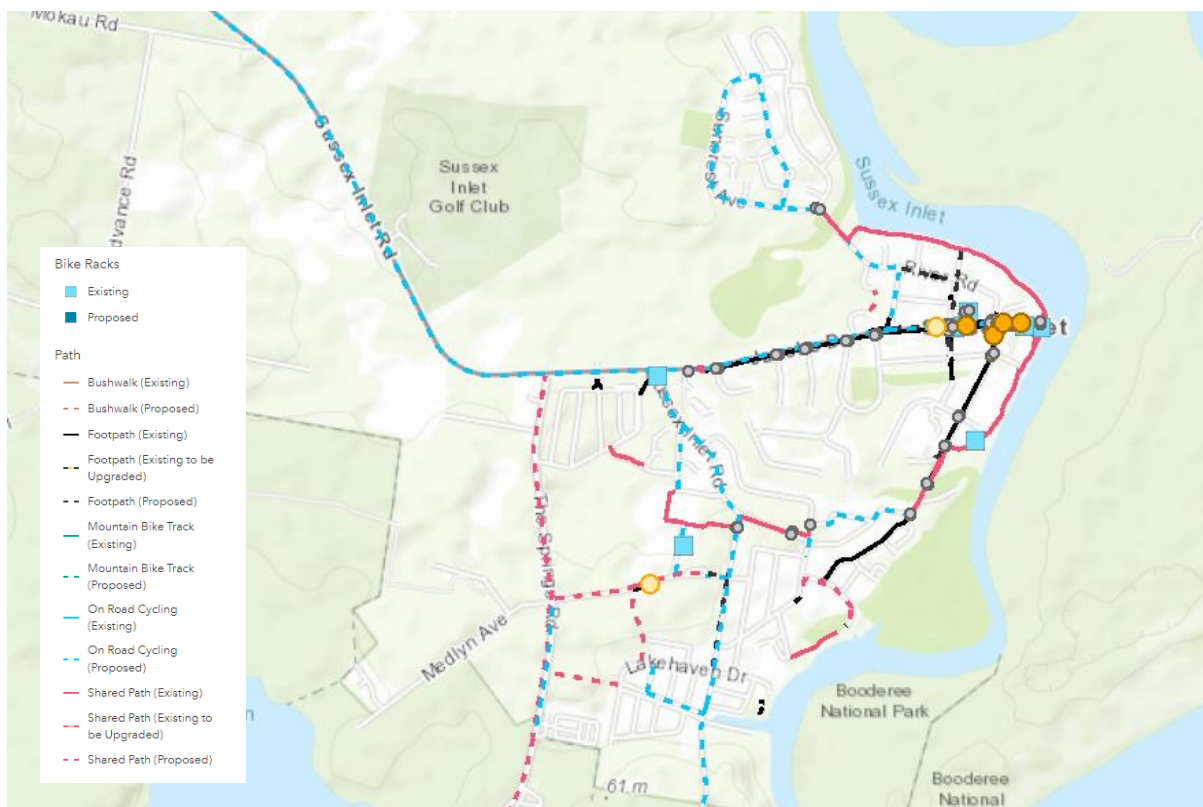


Figure 6 Sussex Inlet excerpt of Council's PAMP



Figure 7 Sanctuary Point excerpt of Council's PAMP

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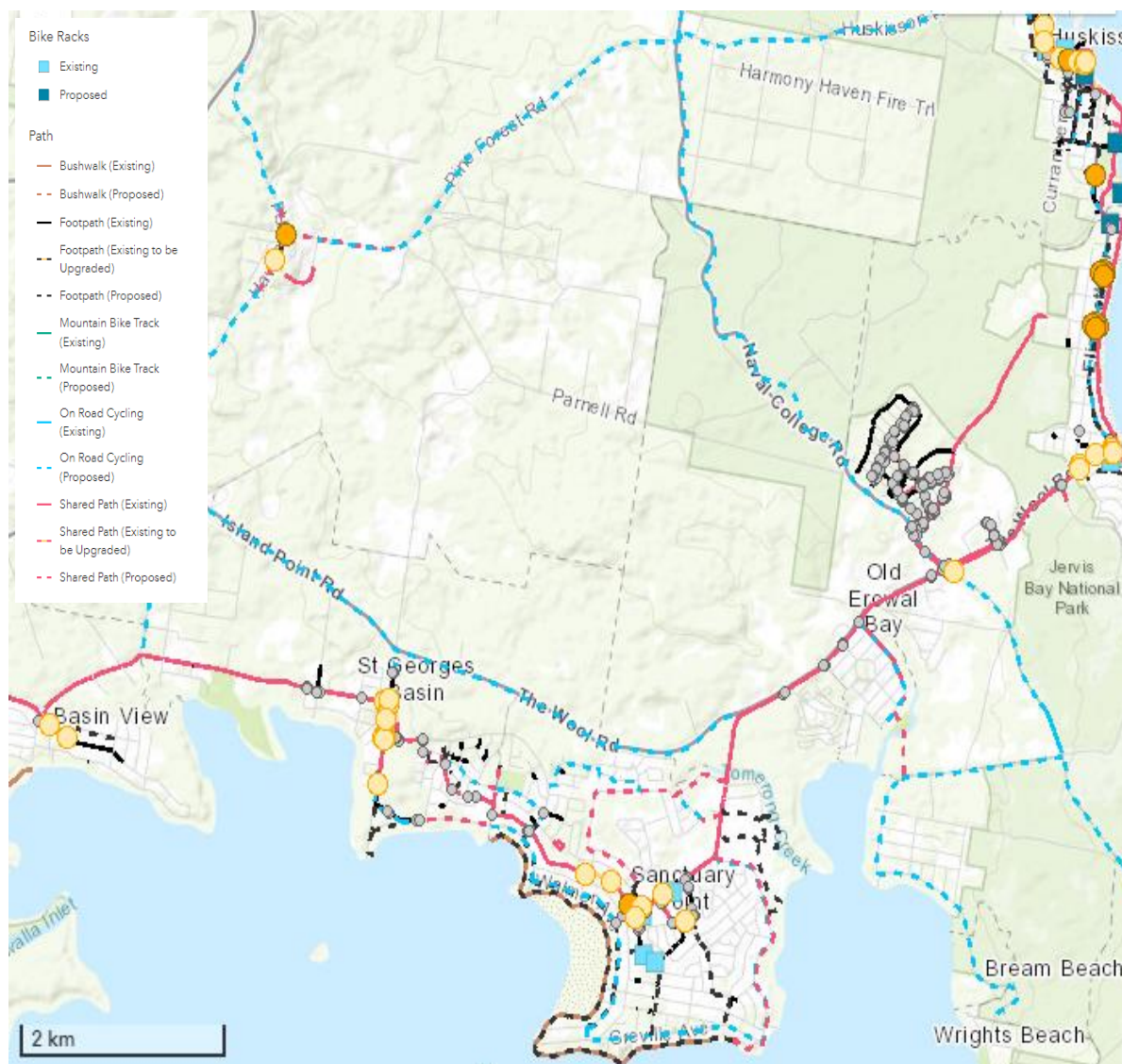


Figure 8 Bay and Basin Excerpt of Council's PAMP showing the Bay to Basin Shared Path / Cycleway

Council also has a Bike Plan (D16/102085), adopted in 2013, which provides a similar purpose to the Pedestrian Access & Mobility Plan. Mapping and projects are integrated across both documents. Although the PAMP includes existing and proposed cycling infrastructure, it also includes all other forms of active transport. Accordingly, the Bike Plan was prepared to highlight the strategy for cyclists and cyclist safety specifically. It also contains separate criteria to rank cycling initiatives.

Figure 9 to Figure 11 illustrate relevant excerpts from Council's Bike Plan showing existing and proposed active transport networks in the Sussex Inlet, Bomaderry and Sanctuary Point localities.

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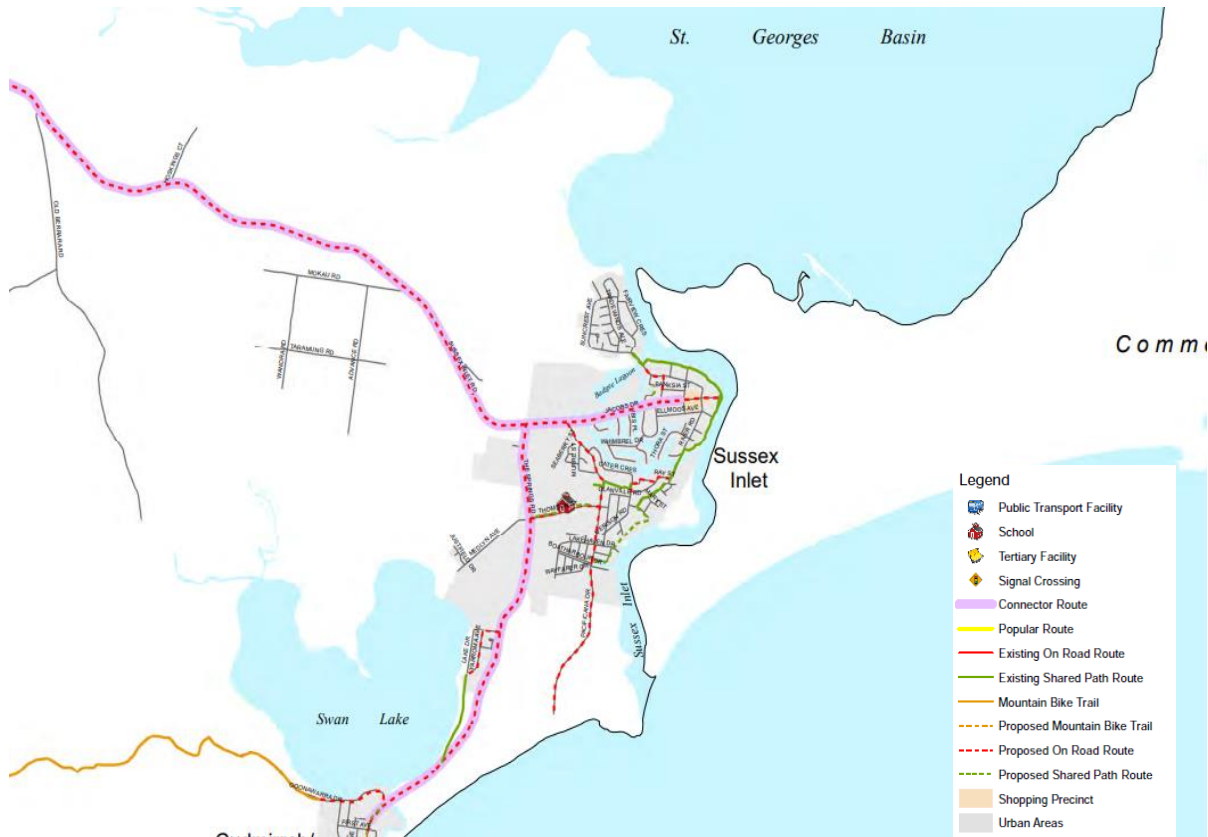


Figure 9 Excerpt of Map 016 from Council's Bike Plan

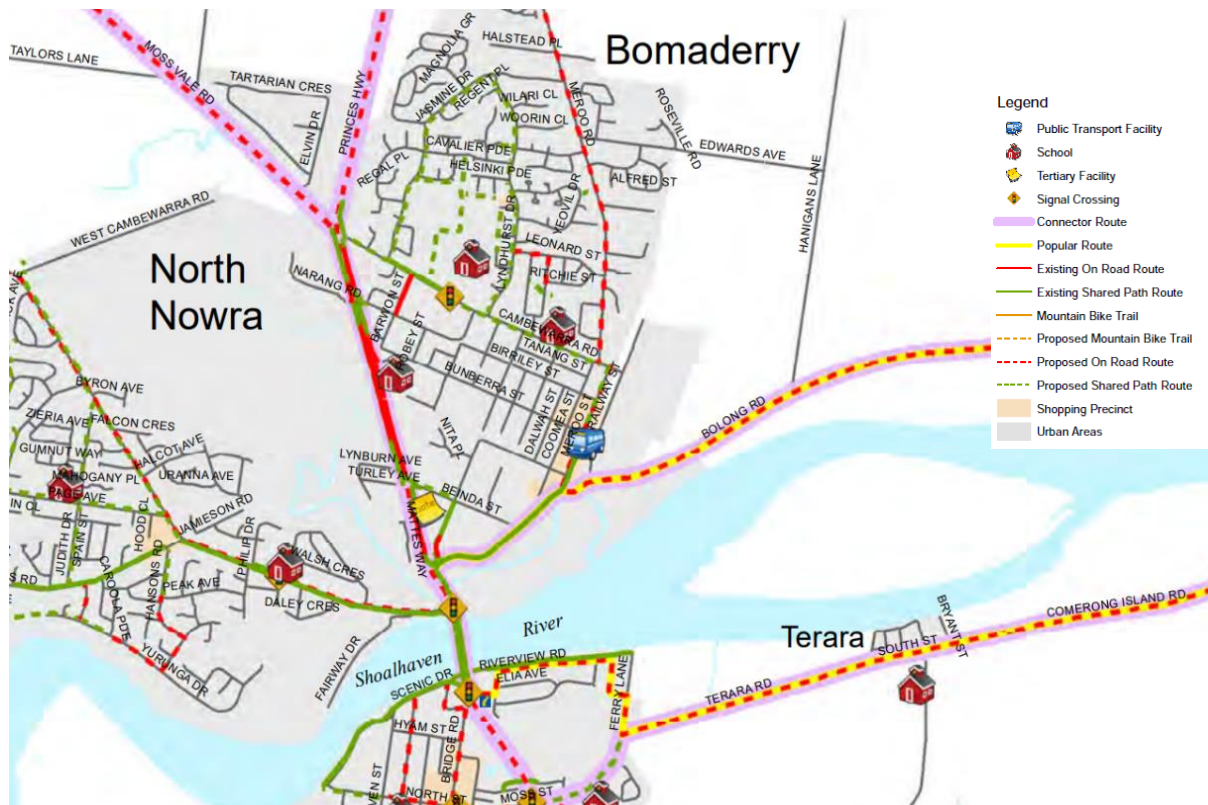


Figure 10 Excerpt of Map 007 from Council's Bike Plan

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Figure 11 Excerpt of Map 014 from Council's Bike Plan

Community Engagement

Pending the outcome of Council's resolution, community engagement will be undertaken in accordance with Council's Community Engagement Policy.

Varying forms of engagement will be undertaken with key internal / external stakeholders and the Sussex Inlet, Bomaderry and Sanctuary Point communities in order to gather feedback which will inform each proposed pump track.

Cycling Groups

Council is aware that a number of community-led cycling clubs operate within the Shoalhaven, with a number of self-maintained, off-road cycling trail networks. Thorough engagement with these groups will occur to ensure any future proposed cycling infrastructure is integrated with, and complements, existing networks. Key groups identified include, but are not limited to:

- Milton Ulladulla Mountain Bikers
- Nowra Velo Club
- Shoalhaven Bicycle User Group
- South Coast United Mountain Bikers (SCUM)

Next Steps

Pending Council's resolution, the next steps for these proposed pump tracks will be to commence community engagement as covered above to identify community support and the preferred sites. Figure 10 below provides a flow chart for the proposed pump tracks' overall process.

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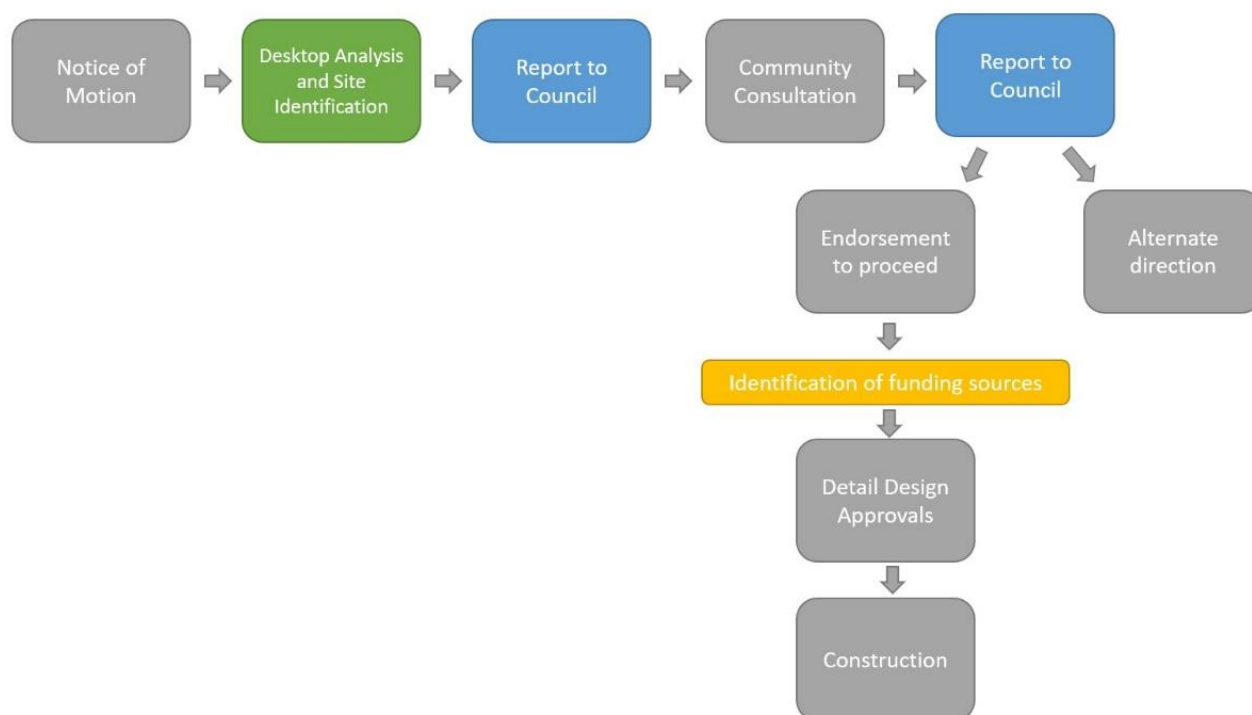


Figure 10 Flow chart of overall process

Policy Implications

Provision of Local Area BMX Circuits Policy (POL16/109)

The Policy was last reviewed in 2017, and is due for review before end of 2022, in line with NSW Local Government Election requirements.

Subsequent to the Policy's last review, a number of strategic plans have been developed in response to an increase in cycling and mountain biking. NSW Government and Regional Strategies have been developed in response to the increased demand for cycling experiences and desire for more authorised cycling experiences, particularly off-road biking. A strategic approach should be adopted in the delivery of cycling infrastructure within Shoalhaven, inclusive of robust community consultation to ensure connectivity of existing and future cycling infrastructure.

Community Infrastructure Strategic Plan Review

Council's CISP is the overarching strategic document to guide Council's social and infrastructure planning. Council staff will shortly commence a thorough review of the CISP, involving the strategic review of all community and social infrastructure, including all recreational and park land within Shoalhaven.

Current community use and future needs for open space will be further investigated during community consultation for the CISP Review, which can be incorporated in the strategic development of a considered approach and an integrated infrastructure program.

Provision and potential update of existing / new BMX circuits and pump tracks, including their definition and classification, will be considered under the CISP review.

Financial Implications

Investigations on the proposed pump tracks to date have been 'desktop' based and funded through the City Lifestyles staff budget.

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The pump track being delivered as Stage 2 of Boongaree (previously Berry District Park) has been funded and is due to commence construction in June 2022. The pump track included as part of the draft Ulladulla Sports Park Masterplan has been endorsed by Council to progress to public exhibition in May 2022, with no funding yet identified for detail design and delivery of individual features.

Council does not currently have an identified budget to plan, build or maintain the proposed pump tracks at Sussex Inlet, Bomaderry or Sanctuary Point. In addition, each project is in the initial planning stage and estimated costs of construction cannot yet be determined.

Should Council determine to undertake further and more detailed investigations once the preferred sites have been determined, and the scope clarified, funding will be required to progress this with development of preliminary concept designs. Further funding would be required, should Council determine to progress this project to a 'shovel-ready' / construction-ready detailed design.

Approximate costings for detailed design for a pump track is \$9,000 to \$25,000, inclusive of specialist documentation, with construction between approximately \$300,000 to \$500,000 dependent on track size and features and materials used. Costings for the pump track may be reduced if pump track project is community-led, or a combination of the below funding streams are utilised:

- Council funding;
- Funding or works in-kind, obtained or delivered by community groups; and/or
- Grant funding.

Risk Implications

Council has a responsibility to ensure that public space under its care, control and management continues to be operational and developed in a sustainable manner to provide for current / future community needs.

The identified sites would require further technical investigations to determine site suitability for location of the pump track. Increased outdoor recreation, greater numbers of cyclists and mountain bikers has resulted in informal trail-building and unauthorised jumps on Council land. Planning and delivery of formal cycling infrastructure with community collaboration allows enhancement of outdoor recreation in the Shoalhaven and mitigates additional unauthorised / unsafe infrastructure.

Council policies and plans must be in line with the relevant legislation, in particular, the Crown Lands Management Act 2016 and the relevant Plan of Management for its category, which governs care and management of Crown Land under Council control.

Sussex Inlet Pump Track Investigations– Council owned / managed Land

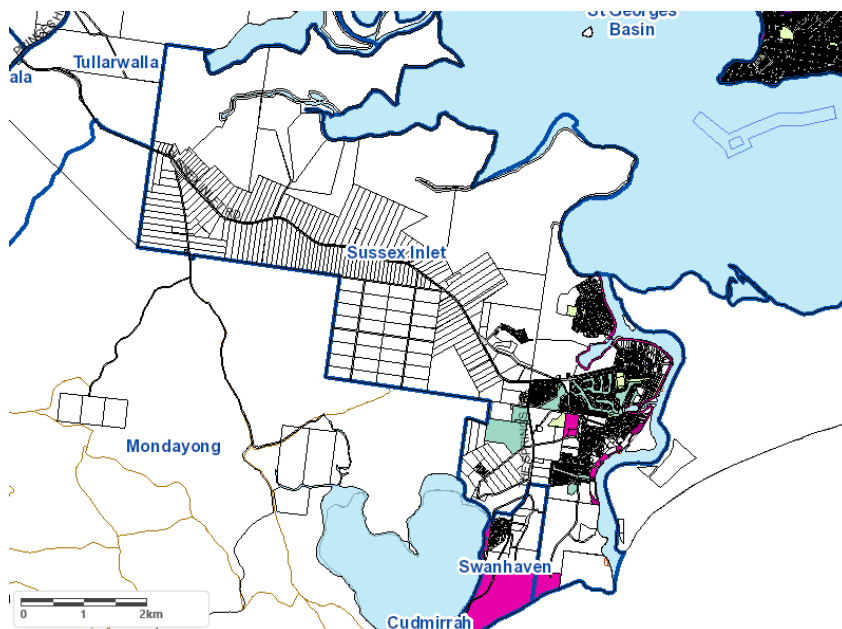


Figure 1 Council owned / managed land in Sussex Inlet locality

Sussex Inlet

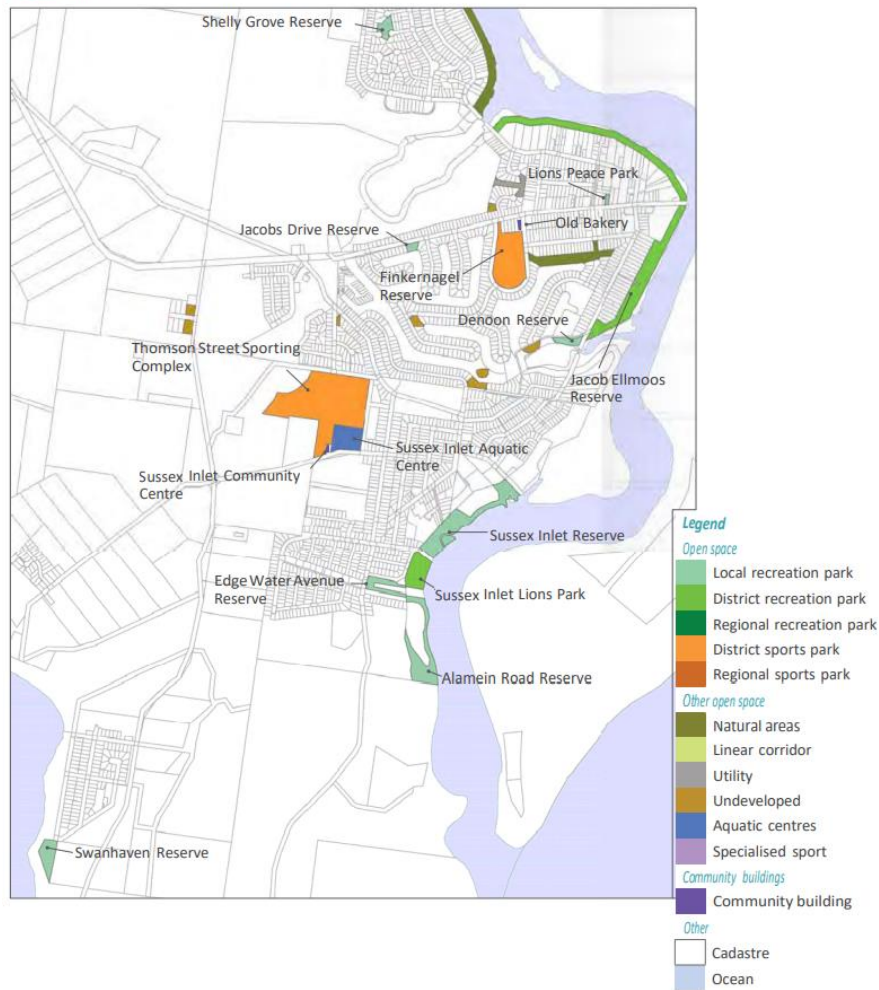




Figure 2 Sussex Inlet excerpt from Council's Community Infrastructure Strategic Plan

Reserve Name	Crown Reserve R69668
Reserve Area	22300m2
Land Owner	Crown Lands
Image	
Reserve contains area of minimum 2106m2 with: 1. Dimensions of approximately 58m x 32m 2. Relatively flat terrain 3. Generally cleared of vegetation	1. Yes 2. Yes 3. Yes
Categorisation of Land	Community Land – General Community Use Community Land – Natural Areas
Actions identified under CISP	N/A
Site Constraints	<ul style="list-style-type: none"> Acid sulfate soils AEP 1 Percent Flood Affected
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Consistent with General Community Use Plan of Management Further investigation required on extent and boundaries of Natural Area on site
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is generally cleared of vegetation and has interface with a variety of recreational infrastructure such as Lions Park, Boat Ramp and Bowling Club.
Suitable bike access to the reserve	Located on relatively low trafficked street.
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Waterway (Sussex Inlet) located over 40m from indicative location
Wherever possible, to be located within the area of other recreation facilities and amenities	Sussex Inlet Lions Park, Boat Ramp and Bowling Club located in close proximity.
Close to transport route and local shops.	No
Summary	Alternate site due to Crown Land ownership, less connectivity to active transport networks, and part categorisation as Natural Area. Site and indicative location of pump track is clear from vegetation, and offers alternate activity options from adjacent Lions Park.

Reserve Name	Thomson Street Sporting Complex
Reserve Area	98100m2
Land Owner	Council / Crown Lands
Image	
Reserve contains area of minimum 2106m2 with:	1. Yes
4. Dimensions of approximately 58m x 32m	2. Yes
5. Relatively flat terrain	3. Yes
6. Generally cleared of vegetation	
Categorisation of Land	Community Land – General Community Use Community Land – Natural Areas
Actions identified under CISP	Remove play equipment end of life
Site Constraints	<ul style="list-style-type: none"> Bush Fire Prone Land – Vegetation Buffer
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Consistent with Sportsgrounds Plan of Management
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is cleared of vegetation and in sporting complex, allowing casual supervision
Suitable bike access to the reserve	Shared pathway adjacent to site, and in close proximity to future on-road cycleway.
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	N/A
Wherever possible, to be located within the area of other recreation facilities and amenities	In sporting complex which contains a variety of active recreation opportunities.
Close to transport route and local shops.	No
Summary	<p>Preferred site due to site size, topography, location within Thomson Street Sporting Complex, adjacent to existing Skate Park and alongside existing shared path. Proposed pump track able to compliment existing active recreational opportunities at the Sporting Complex with existing amenities on-site.</p> <p>Note: Council endorsed the Thomson Street Sporting Complex Master Plan (MIN13.735) which includes a local BMX Track. A previous option presented to Council</p>

	included a pump track at the indicative location, however, this option was not endorsed.
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Bomaderry Pump Track – Site Investigation and Analysis

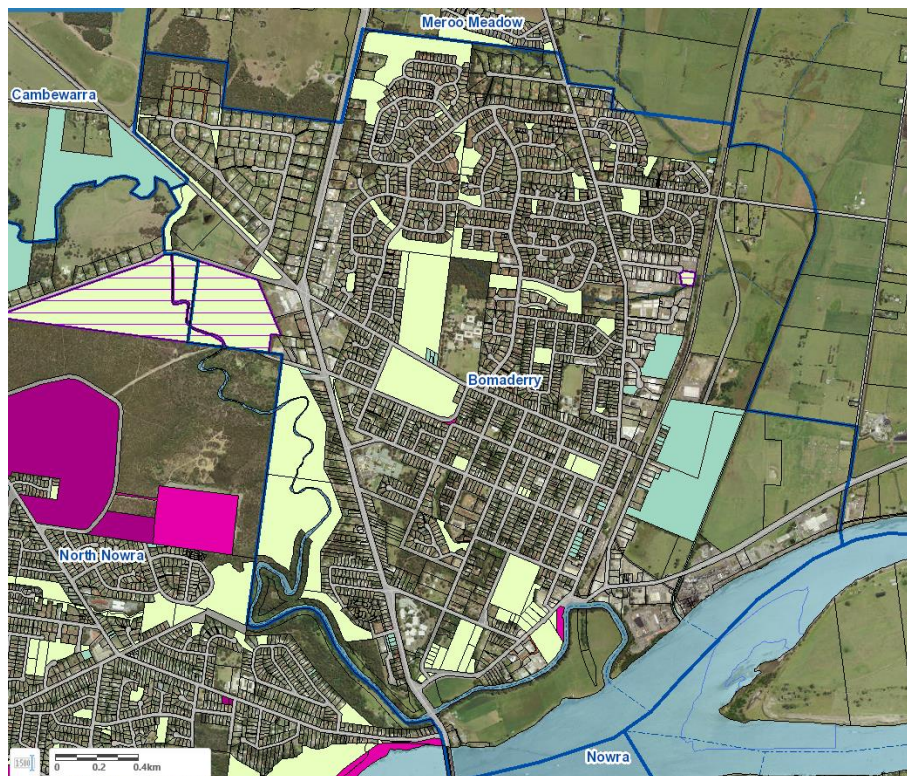




Figure 1 Council owned / managed land in Bomaderry Locality



Figure 2 Bomaderry excerpt from Council's Community Infrastructure Strategic Plan

Reserve Name	Sheraton Garden Park
Reserve Area	64200m2
Land Owner	Council
Image	
Reserve contains area of minimum 2106m2 with: 1. Dimensions of approximately 58m x 32m 2. Relatively flat terrain 3. Generally cleared of vegetation	1. Yes 2. Yes 3. Yes
Categorisation of Land	Community Land – Park Community Land – Natural Areas
Actions identified under CISP	Remove play equipment end of life
Site Constraints	<ul style="list-style-type: none"> Aboriginal Cultural Heritage Class 3 Agricultural Lands Bush Fire Prone – Vegetation Buffer
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Delivery of pump track at this identified site would not be in accordance with the Natural Area Plan of Management.
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Proposed location is visually prominent from the street
Suitable bike access to the reserve	Located on relatively low trafficked street.
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Proposed location over 40m from a watercourse
Wherever possible, to be located within the area of other recreation facilities and amenities	Play equipment located on frontage to Gardenia Crescent
Close to transport route and local shops.	No
Summary	Pump track is not consistent with the classification of the site, and relevant Plan of Management.

Reserve Name	Edwards Avenue Reserve
Reserve Area	10900m2
Land Owner	Council
Image	
Reserve contains area of minimum 2106m2 with: 4. Dimensions of approximately 58m x 32m 5. Relatively flat terrain 6. Generally cleared of vegetation	1. Yes 2. Yes 3. Yes
Categorisation of Land	Community Land – Park
Actions identified under CISP	Upgrade play equipment to a district recreation park
Site Constraints	<ul style="list-style-type: none"> Agricultural Lands – Class 3 Riparian Corridor and Buffer bisects the site
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Consistent with Parks Plan of Management
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is generally cleared of vegetation
Suitable bike access to the reserve	Located on relatively low trafficked street.
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Proposed location over 40m from a watercourse
Wherever possible, to be located within the area of other recreation facilities and amenities	Located in close proximity to a number of local parks
Close to transport route and local shops.	No
Summary	Site is generally clear of vegetation with CISP actions to update equipment to a district recreation park. Anticipated increase in recreational use would indicate appropriate location of proposed pump track. Further investigation required due to riparian corridor bisecting the site.

Sanctuary Point BMX Pump Track Investigations– Council owned / managed Land

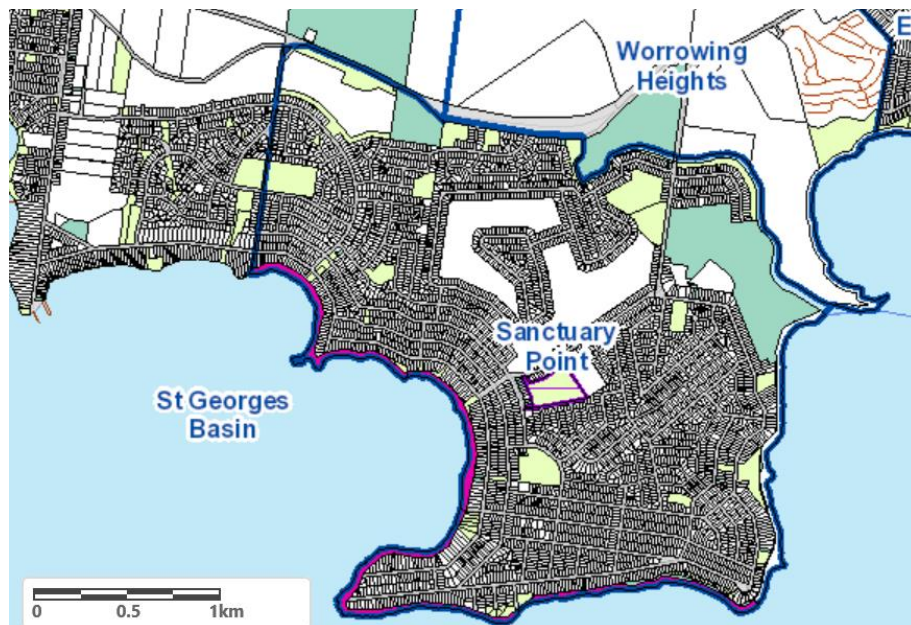


Figure 1 Council owned / managed land in Sanctuary Point locality

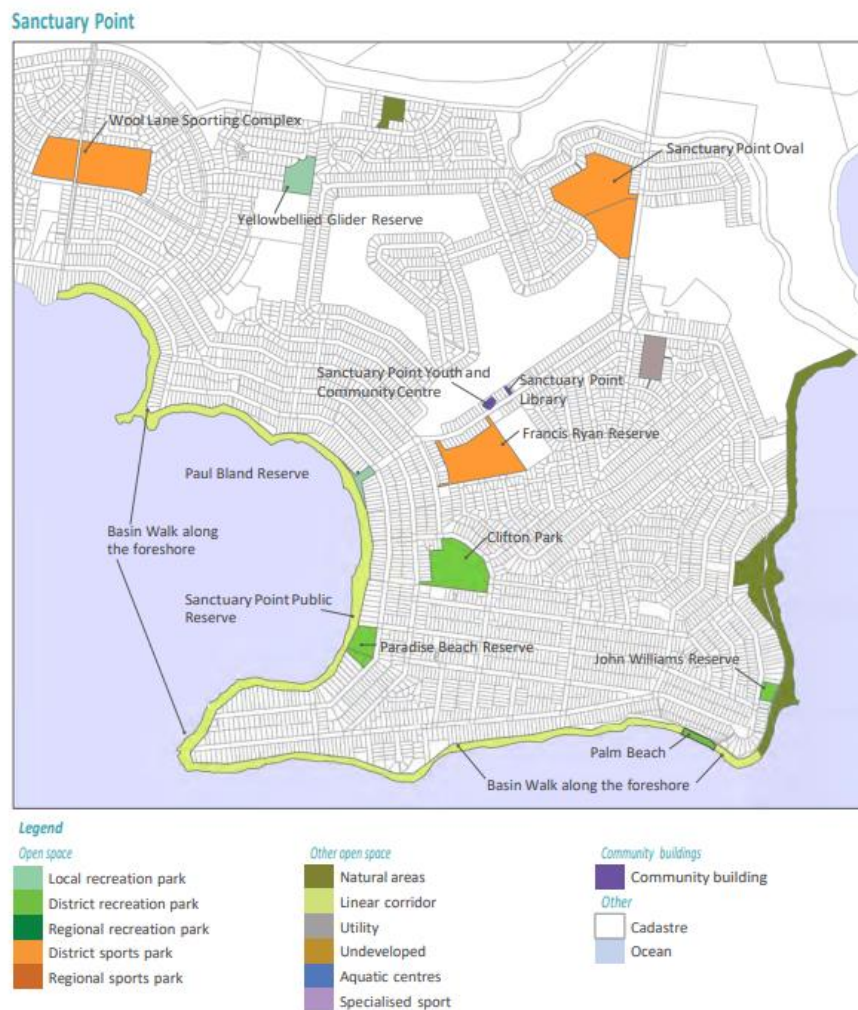



Figure 2 Sanctuary Point excerpt from Council's Community Infrastructure Strategic Plan

Reserve Name	Yellow Bellied Glider Reserve
Reserve Area	14100m2
Land Owner	Council
Image	
Reserve contains area of minimum 2106m2 with: 1. Dimensions of approximately 58m x 32m 2. Relatively flat terrain 3. Generally cleared of vegetation	1. Yes 2. Yes 3. Yes
Categorisation of Land	Community Land – General Community Use
Actions identified under CISP	None
Site Constraints	<ul style="list-style-type: none"> LPI 1:25000 Waterway on site Riparian Corridor and Riparian Corridor Buffer bisects south east portion of site
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Consistent with General Community Use Plan of Management
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is generally cleared of vegetation and surrounded by residential housing.
Suitable bike access to the reserve	Located on relatively low trafficked street however accessed via two culs de sac.
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Future discussions required as watercourse traverses site
Wherever possible, to be located within the area of other recreation facilities and amenities	Less than 1km from Wool Lane Sporting Complex
Close to transport route and local shops.	No
Summary	Third preferred site with access to the reserve on two frontages. Site is generally clear of trees with proposed location for the pump track is generally cleared of trees and located away from the riparian corridor and associated buffer. Largely residential area with not a lot of connectivity to transport corridors and amenities.

	Note: Reserve is identified as Drainage Basin – further consultation to be undertaken with Asset Custodian to determine suitability to locate the proposed pump track on the site
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Reserve Name	Sanctuary Point Road Reserve
Reserve Area	14400m2
Land Owner	Council
Image	
Reserve contains area of minimum 2106m2 with:	1. Yes
4. Dimensions of approximately 58m x 32m	2. Yes
5. Relatively flat terrain	3. Yes
6. Generally cleared of vegetation	
Categorisation of Land	Community Land - Park
Actions identified under CISP	None
Site Constraints	<ul style="list-style-type: none"> LPI 1:25000 Waterway on site Riparian Corridor and Riparian Corridor Buffer bisects site
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Generally consistent – will provide for both passive and active recreation if the proposed pump track is located on the site
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is surrounded by residential housing and fronts main road
Suitable bike access to the reserve	Located along future proposed on-road cycle path and shared path
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Future discussions required as watercourse traverses site
Wherever possible, to be located within the area of other recreation facilities and amenities	Less than 1km from Francis Ryan Reserve and Sanctuary Point Shops
Close to transport route and local shops.	Yes
Summary	Second preferred site due to location along moderately trafficked street with access to the reserve on three frontages. Located adjacent to future active transport network Proposed location for the pump track is generally cleared of trees and located away from the riparian corridor and associated buffer.

Reserve Name	Sanctuary Point Foreshore Reserve
Reserve Area	14100m2
Land Owner	Council
Image	
Reserve contains area of minimum 2106m2 with:	1. Yes
7. Dimensions of approximately 58m x 32m	2. Yes
8. Relatively flat terrain	3. Yes
9. Generally cleared of vegetation	
Categorisation of Land	Community Land - Park
Actions identified under CISP	None
Site Constraints	<ul style="list-style-type: none"> • Adjacent to potential Aboriginal Cultural Heritage • Acid sulfate soils • Bush Fire Prone – Vegetation Category 3 and Vegetation Buffer
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Generally consistent – will provide for both passive and active recreation if the proposed pump track is located on the site
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is generally cleared of vegetation and surrounded on one side by residential housing, and Basin on the other.
Suitable bike access to the reserve	Not ideal access – Crown Lands and through vegetated reserve
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Watercourse on adjacent lot, discussions may be required dependent on proposed location of pump track on the site
Wherever possible, to be located within the area of other recreation facilities and amenities	Approximately 1km from Francis Ryan Reserve and Sanctuary Point Shops
Close to transport route and local shops.	Yes
Summary	Difficult to access proposed pump track location via bike, and site lacks visual prominence. Possible site, noting upgrades to site required to accommodate proposed pump track.

Reserve Name	Sanctuary Point Public Reserve
Reserve Area	13062m2
Land Owner	Council
Image	
Reserve contains area of minimum 2106m2 with: 10. Dimensions of approximately 58m x 32m 11. Relatively flat terrain 12. Generally cleared of vegetation	1. Yes 2. Yes 3. Yes
Categorisation of Land	Community Land – Park
Actions identified under CISP	None
Site Constraints	<ul style="list-style-type: none"> Acid Sulfate Soils on western portion of lots Bush Fire Prone – Vegetation Buffer on western portion of lots
Council owned/managed reserve	Yes
Consistent with the relevant Plan of Management for the reserve	Generally consistent – will provide for both passive and active recreation if the proposed pump track is located on the site
Relatively flat terrain	Yes
Circuit size does not encroach on more than 1/3 of the reserve area	Yes
Visual prominence affording casual supervision	Site is generally cleared of vegetation and surrounded by residential housing.
Suitable bike access to the reserve	Located along future proposed on-road cycle path
If circuit to be located within 40m from a watercourse the proposal is to be discussed with the department that administers the Water Management Act; and	Indicative location located further than 40m from a watercourse
Wherever possible, to be located within the area of other recreation facilities and amenities	Approximately 1km from Francis Ryan Reserve and Sanctuary Point Shops
Close to transport route and local shops.	Yes
Assessment	Preferred site due to site size, topography and generally clear of vegetation. Located adjacent to future active transport network and

	existing parking for site. Proposed pump track able to compliment existing park infrastructure. Accessible public amenities on site.
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CL22.255 National Performance Reporting Score Card

HPERM Ref: D22/213478

Department: Water Business Services

Approver: Andrew McVey, Section Manager - Water Operations & Maintenance

Attachments: 1. National Performance Reporting - Action Plan [↓](#)

Reason for Report

The purpose of this Report is to inform Council of the performance outcomes for Shoalhaven Water following the National Performance Report (NPR) 2020-21 for Urban Water Utilities. The NPR is a comprehensive “report card” released in March 2022 covering the reporting period of 1 July 2020 - 30 June 2021. The Report provides benchmarking data against other Water Authorities/Utilities across Australia.

Recommendation

That Council receive the Australian Government Bureau of Meteorology National Performance Report 2020-21 for Urban Water Utilities for information.

Options

1. As Recommended
2. Council could seek additional information on any of the indicator results.

Background

The NPR 2020-21 for Urban Water Utilities produced by the Australian Bureau of Meteorology (BOM) benchmarks the performance of 86 urban water service providers, comprising 81 Water Utilities and five bulk water suppliers, against 166 indicators covering water resources, pricing, environment, finance, assets, health, and customer service. These indicators are calculated through the annual collection and submission of over 1,100 pieces of data.

Performance monitoring and benchmarking of Council's Water Supply and Sewerage businesses is required under the terms of the National Water Initiative (NWI) and is facilitated by the BOM. The BOM specifies the criteria by which Water Utilities are monitored and the results are tabled publicly each year.

There are 166 indicators that form the full set of performance indicators. This Report provides a summary of key indicators. The full Report can be accessed through the BOM website <http://www.bom.gov.au/water/npr/>.

For the purpose of NPR, the contributing utilities are grouped by the number of connected properties. The utility groups used are:

Group	Number of Connected Properties
Major	100,000+
Large	50,000 to 100,000
Medium	20,000 to 50,000
Small	10,000 to 20,000

CL22.255

Shoalhaven Water under the methodology set out in the NPR, has 50,200 connected properties. Shoalhaven Water are therefore assessed in the Large Group. This is the first year Shoalhaven Water has moved into the Large Group and is the only NSW based Water Utility in this Group.

This Report is provided to Council following analysis of the results and as a summary of key indicators of interest for Shoalhaven Water performance against that of the 13 comparative sized utilities in the Large Group. This report has also provided a comparison with other neighbouring Local Water Utilities on the Typical Residential Bill.

Local Water Utilities Included in the Large Group Category:

Shoalhaven City Council
Coliban Region Water Corporation
Central Gippsland Region Water Corporation
North East Region Water Corporation
Goulburn Valley Region Water Corporation
Central Highlands Water
Toowoomba Regional Council
Redland City Council
Western Region Water Corporation
Water Corporation - Mandurah
Townsville City Council
Cairns Regional Council
Power and Water Corporation – Darwin

A selection of the 166 indicators have been detailed to show Shoalhaven Water's performance which have been collated into four key sections. Each table includes Shoalhaven Water's result, how the result ranks within the Large Group and the average score of the Group.

Section 1- Size and Scale of Infrastructure

Indicator	Shoalhaven Water	Ranking in group	Group average
Number of water treatment plants providing full treatment (plants)	4	4th	9.9
Number of wastewater treatment plants (plants)	13	8th	11.6
Length of Water Mains (km)	1,587	4th	1,929
Length of sewer Mains	1,251	4th	1,363
Number of properties served per km of water main (properties/km)	32	12th	36.4
Number of properties served per km of sewer main (properties/km)	34	13th	45.48

CL22.255

These indicators demonstrate the number of Council's water and wastewater plants and the kilometres of main required to service the community across the wide geographic area of the Shoalhaven. The low number of properties that are serviced per kilometre for both water and sewer mains, highlights the constraint faced when apportioning the cost of maintaining and operating this infrastructure. Shoalhaven Water ranked 12th and 13th respectively for properties served per kilometre of water and wastewater main, the lowest and second lowest number in the group.

Section 2 – Asset Performance

Indicator	Shoalhaven Water	Ranking in group	Group average
Number of water main breaks, bursts, and leaks, per 100 km of water mains (mains breaks/100 km)	6.5	3 rd	13
Number of sewer mains breaks and chokes per 100 km (breaks and chokes/100 km)	3	2 nd	15.3
Number of property connection sewer breaks and chokes per 1,000 properties (breaks and chokes/1,000 properties)	2.2	6 th	2.9
Number of unplanned interruptions per 1,000 properties: water supply (interruptions/1,000 properties)	38	4 th	81.5

A targeted program of works to replace high risk pipelines has been progressing over the past few years and it is expected the results will further improve over time. The success of Council's ongoing investment, based on a risk management and risk mitigation approach to maintain the water and wastewater network, underpins Shoalhaven Water's performance in all of the above indicators.

Importantly, it is recognised that whilst Shoalhaven Water's performance continues to be strong, the continued reinvestment in assets is required to maintain this level of performance and further improvement. A maturity assessment of Council's asset management was conducted at the end of 2021. Work has begun on the implementation of the recommendations identified by this assessment, to further strengthen the asset management and operations of Council's infrastructure.

Section 3 – Customer Service

Indicator	Shoalhaven Water	Ranking in group	Group average
Number of water service complaints per 1,000 properties (complaints/1,000 properties)	0.2	5 th	4.6
Number of sewerage service complaints per 1,000 properties (complaints/1,000 properties)	0.1	4 th	0.5
Average duration of an unplanned interruption: water supply (minutes)	74	4 th	94.4

CL22.255

Shoalhaven Water has a strong customer focus with systems well established to identify problems early within the network, through a telemetry monitoring system. Shoalhaven Water have built effective and efficient workflows to quickly respond when customers identify interruptions in the water and sewer network.

Currently, Shoalhaven Water is supporting the Council wide project to implement a Request Management System. The project will provide a centralised system for customers to advise when they find a problem, utilising a number of communication channels including the Customer Experience team and self-service options through the Shoalhaven Water website.

This project will continue to capture and manage complaints to respond efficiently to further reduce both the number and length of time of unplanned interruptions to Council's networks.

Section 4 – Customer Cost of Service and Customer Usage of Services

Indicator	Shoalhaven Water	Ranking in group out of 13	Group average
Fixed charge: water supply (\$)	83.00	1 st	299.60
Usage charge: step 1 (\$/kL)	1.75	4 th	2.94
Annual residential bill based on 200 kL per annum: water supply (\$)	433.00	2 nd	688.58
Annual residential bill based on 200 kL per annum: wastewater (\$)	876.00	12 th	690.68
Total typical residential bill: water supply and wastewater (\$)	1,231	5 th	1,370.92
Average volume of residential water supplied per property (KL/property)	155	3 rd	215
Average volume of wastewater collected per property (KL/property)	277	11 th	242

The Shoalhaven is fortunate to have access to high quality raw water, coupled with the low volume of water supplied on average to residential customers, the cost of water to customers is comparably low. The complexity of managing wastewater across Council's geographically dispersed population, sensitive environments and the high volume of average wastewater collected per property, all contribute to the higher wastewater costs.

The investment in significant wastewater treatment plants, particularly the Nowra Treatment Plant and Reclaimed Water Management Scheme (REMS) has provided increased capacity in the wastewater schemes to cater for current and future forecasted population growth in the Shoalhaven.

Comparison with Neighbouring Local Water Utilities

Indicator	Total Typical residential Bill
Shoalhaven Water	\$1,231
Sydney Water Corporation	\$1,022
Goulburn Mulwaree Council	\$1,362
Wingecarribee Shire Council	\$1,376
Eurobodalla Shire Council	\$1,770
Bega Shire Council	\$1,952

CL22.255

A summary action plan is attached to this report that identifies key actions planned for the next two years to support the ongoing performance of Shoalhaven Water in the National Performance Reporting.

The long-term financial planning will continue to balance the cost to Shoalhaven customers and the revenue required to fund the asset management planning and ongoing operational costs. The fees and charges proposed for the 2022-23 financial year have an increase in water usage charges but has maintained the fixed charge. This pricing methodology is in line with the Best Practice Management of Water Supply and Sewerage with most of the revenue collected through water usage. This continues to encourage residents to be conservative with their water consumption.

Dividend Paid

On the 26 April 2022 Council adopted to approve the payment of a dividend from the 2020-21 financial year from both the Water and Sewer funds. The NPR data reveals that Shoalhaven Water was one of only four Local Water Utilities out of the thirteen in the large group to pay a dividend for the 2020-21 year. A review of the neighbouring Local Council areas, confirmed that only Eurobodalla Shire Council paid a dividend in this reporting period.

Review of Indicators

It should be noted that a review of the performance indicators set out in the NPR has been underway since October 2020. The outcome of the review is anticipated to establish a suite of indicators and themes that are relevant to the current urban water sector and adaptable to changes in the sector in the future. The publication of the new NPR indicators and definitions handbook was anticipated to be released in March 2022, at the time of this Report, this has not been released. The indicators will take effect for the reporting period starting 1 July 2022. Once released, the collection of data required to meet the new NPR indicators will be reviewed to ensure systems are updated for future reporting.

Community Engagement

A copy of the full BOM performance report in a similar format is available from the [BOM website](#). A full dataset of the results from the 166 indicators are also available.

A summary along with links of Shoalhaven's performance have been promulgated for customers on the Shoalhaven Water website and segments will be contained within the Customer Service Plan for benchmarking against the targets specified in that strategic document. An update of the Customer Service Plan can be found at the Shoalhaven Water [website](#).

Full analysis of the entire suite of indicators is being undertaken to address any issues including future considerations for inclusion into the Shoalhaven Water Strategic Business Plan.

Financial Implications

There are no financial implications for Council resulting from this report that have not been addressed separately.

CL22.255

Shoalhaven Water National Performance Reporting – Action Plan

May 2022

Section	Goal	Actions
Asset Performance	Continue the advancement of our Asset Management.	Implement the recommendations for the Asset management maturity assessment including: <ul style="list-style-type: none"> ○ Asset Management system improvement ○ Review and update of Asset Management strategy ○ Continue the development of scheduled maintenance to support the shift from reactive.
	Develop planning and design to meet for future growth areas across the Shoalhaven.	Continue to develop the infrastructure planning required to meet forecast population growth in key areas of the Shoalhaven.
Customer Service	Ensure any service outages continue to be resolved in a timely manner.	Support the delivery of Council wide Request Management Project which includes an online portal for the Customer to lodge and track their requests.
	Continue the development and expansion of water and wastewater network monitoring.	Complete review of Customer levels of service and our technical levels of service to update and improve our Customer Service Plan and Asset Management Strategy. Expansion of our telemetry and monitoring system throughout the network. Consolidation of operational control room to monitor the telemetry system and early detection of network failures.
Customer Costs	Maintain long-term financial planning to ensure sustainability of funding for asset renewal and new assets whilst ensuring Customer pricing is at a sustainable level to reduce the risk of intergenerational inequality.	Annual review of long-term financial forecasts to inform asset renewal and new asset planning along with Customer pricing.
	Support water conservation & water literacy of Customers to reduce water consumption.	Complete the review of our water education program targeting children and production of the refreshed education shows and video resources. Continued promotion of rainwater tank rebates for Customers to support water conservation.

CL22.256 Notice of Motion - Community Safety in Nowra CBD

HPERM Ref: D22/225503

Submitted by: Cllr Paul Ell
Cllr Serena Copley

Purpose / Summary

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

Recommendation

That Council:

1. Directs the CEO to investigate and audit the coverage of CCTV cameras and lighting in Council owned car parks in and around the Nowra CBD and prepare a report for Councillors outlining the findings of the audit.
2. Directs the CEO to include in his report recommendations for any additional security infrastructure or other measures needed to improve community safety particularly in the Council owned car parks servicing the Nowra CBD.
3. Instructs the CEO to include information about potential funding options open to Council from the state and federal governments to achieve the objectives outlined in point 2.
4. Instructs the CEO to write to Superintendent Greg Moore from the NSW Police as part of preparing the report inviting him to share any suggestions or provide any other comments regarding this matter.

Background

I have been made aware of a spate of incidents of anti-social behaviour and vandalism in the Nowra CBD.

I personally work in Nowra on a daily basis and I have witnessed this first hand. Just recently, my work colleagues had to call the police over an incident occurring on the street outside our office. This was preventing access for our clients and caused enormous distress to elderly clients in the office at the time.

I am aware that a cafe owned by a young brother and sister who had only opened their business together late last year have recently decided to close due to anti-social behaviour and vandalism impacting their business.

Further, a friend of mine recently had her brand-new car (less than 5000 kms on the clock) keyed in a vicious act of vandalism. She was parked in one of the all-day car parks owned by Council at the time and was told by Council that there were no CCTV cameras in place to help catch the culprits. She is a single mother and has had to fork out close to a \$1000 in insurance excess to deal with this issue.

The smash repairer she saw told her that hers was one of nearly a dozen other cars that he has seen come into his workshop just this month after having been vandalised in Council car parks.

CL22.256

After investigating the various all-day car parks around the CBD, many do not have CCTV or adequate lighting making them very unsafe environments for people walking back to their car after work particularly in the non-daylight-saving months.

CL22.256

CL22.257 Notice of Motion - PP-2021-406 - Planning Proposal - Callala Bay and Kinghorne Point Halloran Trust Lands Rezoning

HPERM Ref: D22/227908

Submitted by: Cllr Evan Christen
Cllr Liza Butler

Purpose / Summary

The following Notice of Motion, of which due notice has been given, is submitted for Council's consideration.

Recommendation

That Council

1. Acknowledges the community concern about this Planning Proposal regarding the loss of threatened species, the risks due to bushfires and that clearing forest does not help mitigate or manage climate change
2. Recognise and take steps to help protect the biodiversity value of the overall area covered by the exhibited documents and the site adjacent to Callala Bay that is currently proposed for rezoning to residential
3. Direct staff to make a submission on the exhibited Planning Proposal and Biodiversity Certification Assessment Report for Callala Bay the Department of Planning and Environment for the following considerations
 - a. That DPE ensures that it can be satisfied the proposal will achieve a 'maintain or improve' biodiversity outcome in relation to the Greater Glider, Yellow-bellied Glider and Grey-headed Flying-fox, including a discussion of suitable habitat for these species within the Lake Wollumboola Biobank Site.
 - b. That DPE should seek independent evidence on the accuracy and currency of the BCAR (2016/17) in context of the Currowan bushfire (2019/20) and recent credible sightings of endangered species on the site, and the potential value of the proposed biodiversity certification area as a suitable and credible refuge for the identified threatened species, as any inaccuracies may be contentious for DPE.
 - c. Mitigation measures that could be included as conditions of consent for the subdivision development application(s) to minimise harm to biodiversity values within the biodiversity certification area during the construction phase, including the Greater Glider, Yellow-bellied Glider and Grey-headed Flying-fox, such as
 - i. Staging clearing
 - ii. Timing of clearing outside breeding seasons
 - iii. Retention of hollow bearing trees within the public land and potential installation of nesting boxes within surrounding bushland
 - iv. Best practice methodology for felling trees to protect wildlife
 - d. Staff are involved in ongoing discussions with the RFS, DPE & the proponent, and need to be satisfied that the protection of lives and property can be realistically ensured considering the proposed addition of 380 houses is to be surrounded on 3 sides by tall coastal forest in a small remote village

CL22.257

4. Receive an update report at the appropriate point after the exhibition has concluded outlining how the above matters will be considered and addressed moving forward.

Background

This Notice of Motion (NoM) is brought to Council for consideration due to the concerns expressed by residents of Callala Bay, and the Jervis Bay area. There have also been concerns raised from various groups and organisations in the Shoalhaven.

The main concerns are regarding:

- The clearing of approximately 32.7 hectares land with habitat for threatened species such as Greater Gliders.
- Recent independent examination of the land subject to clearing has found the presence of threatened species: Greater Gliders, Yellow-bellied Gliders, Eastern Pygmy Possums, Glossy Black Cockatoos, Gang Gang Cockatoos, and Grey-headed Flying Foxes.
- Clear-felling this land, whether staged or immediate, will either kill outright or displace wildlife into adjoining areas. Displacement or relocation will generate conflict from competition and/or death from exposure.
- About 80% of Shoalhaven land area was burned in 2019-2020 badly affecting wildlife, therefore mature coastal forest such as this should be protected.
- That an additional 380 homes surrounded on three sides by forest increases the risk of death and property loss in Callala Bay.

This NoM is to support the community in their concerns by requesting that the Department of Planning and Environment re-evaluate these issues in considering the proposal. Further, it is important to note that this local concern also reflects a broader concern across the Shoalhaven regarding the environment and climate change. This is evidenced in a number of ways:

The draft Community Strategic Plan (CSP) has 4 key themes, one of which is “Sustainable, liveable environments” (p23) which has three objectives:

- Manage our infrastructure and assets for long term sustainability to meet community need
- Manage growth and development with respect for environment and community values
- Protect the natural environment and enhance sustainability

The draft CSP indicates the community is deeply concerned about the environment, page 19 quotes the community as saying:

- "We love –
 - natural landscapes and bush land,
 - small communities and villages".
- "We want to see –
 - balanced sustainable development,
 - protected environment".
- "We are concerned about –
 - over development,

CL22.257

- loss of our natural environment and
- impacts of climate change".

The 2020 Community Satisfaction survey by Council found that the community was not very satisfied with Council performance in areas associated with the environment. Below are the percentages of satisfied respondents:

- Sustainable management of natural environment – 40%
- Environmental protection and enforcement – 31%
- Strategic land use and town planning for Shoalhaven – 21%

Outside of Council community consultation, the concerns for the environment are also reflected in each of the 5-community led strategic plans: Bay & Basin, Sussex Inlet, Berry, Shoalhaven Heads, Conjola, with all of these Strategic Plans including a priority with regard to the natural environment.

Clearly there is community concern about protecting our natural environment and having ecologically sustainable development. Council has heard these concerns and included environmental protection goals in the CSP. Council is therefore committed to protecting the environment and should represent the concerns of Callala Bay and Shoalhaven residents.

LOCAL GOVERNMENT ACT 1993

Chapter 3, Section 8A Guiding principles for councils

(1) Exercise of functions generally

The following general principles apply to the exercise of functions by councils:

- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
- (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
- (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
- (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
- (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (g) Councils should work with others to secure appropriate services for local community needs.
- (h) Councils should act fairly, ethically and without bias in the interests of the local community.
- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.

(2) Decision-making

The following principles apply to decision-making by councils (subject to any other applicable law):

- (a) Councils should recognise diverse local community needs and interests.
- (b) Councils should consider social justice principles.
- (c) Councils should consider the long term and cumulative effects of actions on future generations.
- (d) Councils should consider the principles of ecologically sustainable development.
- (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.

(3) Community participation

Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Chapter 3, Section 8B Principles of sound financial management

The following principles of sound financial management apply to councils:

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following:
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following:
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services

Chapter 3, 8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils:

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.